

DEMETRIOS "JIMMY" HARALAMBUS 9/18/2014

Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CLINTON HENDERSON and)
ANDREW OLINDE,)
individually and on)
behalf of all other)
similarly situated)
individuals,)
)
Plaintiffs,) CIVIL ACTION NO.
)
vs.) 1:13-CV-3767-TWT
)
1400 NORTHSIDE DRIVE,)
INC. d/b/a SWINGING)
RICHARDS, AND C.B.)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 2	Page 4
<p>JONES,)) Defendants.)</p> <p>THIS DEPOSITION CONTAINS INFORMATION DESIGNATED CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER</p> <p>DEPOSITION OF DEMETRIOS "JIMMY" HARALAMBUS</p> <p>(Taken by Plaintiffs)</p> <p>September 18, 2014</p> <p>10:00 a.m.</p> <p>Suite 2700 260 Peachtree Street Atlanta, Georgia</p>	<p>1 INDEX TO EXAMINATION</p> <p>2 Witness Name: Page</p> <p>3 DEMETRIOS "JIMMY" HARALAMBUS</p> <p>4 By Mr. Lukas 4</p> <p>5 By Ms. Murphey 89</p> <p>6 By Mr. Lukas 92</p> <p>7 By Ms. Murphey 94</p> <p>8 By Mr. Lukas 97</p> <p>9</p> <p>10 INDEX TO PLAINTIFF'S EXHIBITS</p> <p>11 No. Description Page</p> <p>12 Exhibit 1 SR 2094 thru 2131, 12-31-13, 17</p> <p>13 Income Statement re: 1400</p> <p>14 Northside Drive, with</p> <p>15 handwritten notations by</p> <p>16 witness.</p> <p>17 Exhibit 2 Listing of patron/waiter/dancer 99</p> <p>18 line items, with handwritten</p> <p>19 notations by witness.</p> <p>20 ---</p> <p>21 INDEX TO MARKED QUESTIONS</p> <p>22 Page No. Line</p> <p>23 57 1</p> <p>24 57 20</p> <p>25 59 6</p> <p>62 8</p> <p>80 14</p>
Page 3	Page 5
<p>1 APPEARANCES OF COUNSEL</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 PAUL J. LUKAS, Esq.</p> <p>4 Nichols Kaster</p> <p>5 80 South 8th Street, Suite 4600</p> <p>6 Minneapolis, Minnesota 55402</p> <p>7 (612) 256-3200</p> <p>8 lukas@nka.com</p> <p>9</p> <p>10 On behalf of the Defendants:</p> <p>11 SUSAN KASTAN MURPHEY, Esq.</p> <p>12 HERB SCHLANGER, Esq.</p> <p>13 Schulten, Ward & Turner</p> <p>14 260 Peachtree Street, Suite 2700</p> <p>15 Atlanta, Georgia 30303</p> <p>16 (404) 688-6800</p> <p>17 skm@swtlaw.com</p> <p>18 --oOo--</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 DEMETRIOS "JIMMY" HARALAMBUS,</p> <p>2 having been first duly sworn, was examined and</p> <p>3 testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. LUKAS:</p> <p>6 Q. Will you please state your full name,</p> <p>7 spelling it for the record?</p> <p>8 A. Haralambus, Jimmy Haralambus, J-I-M-M-Y,</p> <p>9 H-A-R-A-L-A-M-B-U-S.</p> <p>10 MR. LUKAS: And Herb, you want to put</p> <p>11 something on the record?</p> <p>12 MR. SCHLANGER: Yeah. Mr. Haralambus is</p> <p>13 a certified public accountant, and he -- one</p> <p>14 of his clients is the defendant in this</p> <p>15 action.</p> <p>16 He has not been subpoenaed -- he has not</p> <p>17 been noticed as a 30(b)(6) deposition</p> <p>18 witness for the club, and attorn -- and</p> <p>19 accountant-client communications are</p> <p>20 privileged in Georgia.</p> <p>21 Rather than doing it question by</p> <p>22 question, I believe we've agreed that I will</p> <p>23 not object on attorney-client privilege --</p> <p>24 MS. MURPHEY: Accountant-client</p> <p>25 privilege.</p>

2 (Pages 2 to 5)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 6	Page 8
<p>1 MR. SCHLANGER: -- yes, I'm sorry, 2 accountant-client privilege on a 3 question-by-question basis but would permit 4 questioning about the set-off issue, and we 5 waive the privilege to that extent. 6 But I believe that the plaintiffs have 7 agreed not to argue that any waiver of the 8 privilege waives it beyond the particular 9 question and answer given. 10 MR. LUKAS: Okay. Let's go. 11 MS. MURPHEY: I'm sorry. One more. And 12 then pursuant to -- we're going to designate 13 this deposition confidential because of the 14 financial disclosure of club financial 15 records as part of it pursuant to a 16 protective order the parties are working on 17 to get filed with the court. 18 BY MR. LUKAS: 19 Q. With that business aside, Mr. Haralambus, 20 have you had your deposition taken before? 21 A. No. 22 Q. As you can see, Debra here is taking this 23 down mechanically. So there's a few things we need 24 to make sure we do that you don't do in normal 25 conversation. Okay?</p>	<p>1 A. Yes. Sorry. 2 Q. See there, that's good practice. That's 3 the other reason we do the instructions is so that 4 you get to practice on speaking out loud. It's a 5 little bit of an odd setting. But once we get 6 going, it'll be fairly normal. 7 A. Sure. 8 Q. Could you please describe for me your 9 educational background? 10 A. I am a South African chartered accountant. 11 I've passed the exams in South Africa, and I've 12 passed the exams in the state of Georgia. I'm a 13 certified public accountant. 14 Q. And how long have you been a certified 15 public accountant? 16 A. In the United States? 17 Q. Yes. 18 A. 2000. 19 Q. And -- 20 A. That's 14 years. 21 Q. And how long were you a C.P.A. in South 22 Africa? 23 A. Oh, gosh. About five, six years. 24 Q. And what educational degrees do you have? 25 A. I have a bachelor in accounting science</p>
Page 7	Page 9
<p>1 A. Sure. 2 Q. Number one is I need you to answer 3 verbally. An "uh-huh" and "huh-uh," shrugging the 4 shoulders and shaking -- 5 A. Sure. 6 Q. -- the head is difficult for her to get 7 down, so we need verbal responses. 8 Secondly, we can't speak over the top of 9 one another. In ordinary conversation you 10 anticipate what the person is going to say and you 11 start to answer before they finish. 12 In this setting you have to make sure 13 that, even if you know what I'm going to say, let 14 me spit it all out, and then you start your answer. 15 And if I cut you off and you weren't done 16 answering, you make sure I know that and we'll let 17 you finish. 18 Okay? 19 A. Sure. 20 Q. I don't anticipate we'll be here that long 21 today. But if for any reason you need a break, 22 I'll finish -- you let me know, I'll finish 23 whatever line of questioning I'm pursuing and then 24 I'll give you that break. 25 Okay?</p>	<p>1 and a bachelor in accounting science honors. 2 Q. And from where are those degrees? 3 A. From South Africa. 4 Q. What educational institution? 5 A. The University of South Africa, commonly 6 known as Unisa. 7 Q. And you came to the United States in 2000? 8 A. In 1994. 9 Q. 1994. What did you do between 1994 and 10 when you -- 11 A. I was a light bulb specialist. 12 Q. Again, you need to let me finish. I was 13 going to say between 1994 and when you became a 14 C.P.A. in 2000. You said you were a light bulb 15 specialist? 16 A. Yeah. 17 Q. What is a light bulb specialist? 18 A. We had a store in Buckhead known as Light 19 Bulbs Unlimited from 1994 to 2000. 20 Q. And was this a retail or a wholesale? 21 A. It was retail. 22 Q. You say "we." Who's "we"? 23 A. I had partners in Florida who owned a 24 light bulb store, Light Bulbs Unlimited in Florida. 25 Q. I assume you sold light bulbs?</p>

3 (Pages 6 to 9)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 10	Page 12
<p>1 A. That is correct.</p> <p>2 Q. Anything else besides light bulbs?</p> <p>3 A. It was light bulb fixtures as well.</p> <p>4 Q. I see.</p> <p>5 A. So that encompasses the whole lot.</p> <p>6 Q. When you say fixtures, are you talking</p> <p>7 about like chandelier type fixtures or are you</p> <p>8 talking about electrical boxes and whatnot?</p> <p>9 A. Both.</p> <p>10 Q. And it was both retail and wholesale?</p> <p>11 A. It was mainly retail.</p> <p>12 Q. Did you have store locations?</p> <p>13 A. We had one in Buckhead.</p> <p>14 Q. Is that now closed?</p> <p>15 A. It was sold, and then they closed it.</p> <p>16 Q. And when was that?</p> <p>17 A. I sold my -- well, I gave up my share in</p> <p>18 2000. When they closed it was about four years</p> <p>19 after that.</p> <p>20 Q. And what did you do after that?</p> <p>21 A. After that I decided to go back into the</p> <p>22 profession that I wanted to pursue and I joined</p> <p>23 Seth Twum & Company then.</p> <p>24 Q. And you've been with them since 2000?</p> <p>25 A. I would say towards the end of 2000,</p>	<p>1 audits are only required mainly by companies with</p> <p>2 S.E.C. regulations which are on the Stock Exchange.</p> <p>3 Private companies are not subjected to any audits.</p> <p>4 Therefore we don't do any audits, only upon</p> <p>5 request.</p> <p>6 Q. And what's a write-up?</p> <p>7 A. We get bank statements, bank stubs, and we</p> <p>8 enter it into a software, whether it's into Excel</p> <p>9 spreadsheet first, and then transfer that over onto</p> <p>10 an accounting software via QuickBooks or Peachtree</p> <p>11 Accounting, and then we can do reporting on that,</p> <p>12 getting the financial statements out.</p> <p>13 If it's a small company, I would only do a</p> <p>14 spreadsheet. I would not transfer it into -- it's</p> <p>15 just not worth my while.</p> <p>16 Q. And financial statements I think I</p> <p>17 understand. What's a compilation report?</p> <p>18 A. A compilation report is where an auditor</p> <p>19 expresses an opinion on the financial affairs of</p> <p>20 the company. But there are different types of</p> <p>21 financial reports, but that's the gist of it.</p> <p>22 Q. And how many clients do you have</p> <p>23 currently?</p> <p>24 A. I work with about -- personally I work</p> <p>25 with about ten.</p>
Page 11	Page 13
<p>1 beginning of 2001.</p> <p>2 Q. And what is your current title?</p> <p>3 A. Just a manager.</p> <p>4 Q. How many accountants does Seth Twum &</p> <p>5 Company have?</p> <p>6 A. He's the partner, and we've got one more</p> <p>7 bookkeeper/accountant. But he's not qualified as a</p> <p>8 C.P.A.</p> <p>9 Q. So there's two C.P.A.s, you and Seth?</p> <p>10 A. That is correct.</p> <p>11 Q. And you've been with Seth then ever since</p> <p>12 you became a C.P.A. in the United States?</p> <p>13 A. That is correct.</p> <p>14 Q. And are you currently a partner?</p> <p>15 A. I am seen as a partner, but officially</p> <p>16 not.</p> <p>17 Q. Do you have an ownership interest?</p> <p>18 A. I do not.</p> <p>19 Q. And what is the nature of your current</p> <p>20 practice, your C.P.A. practice?</p> <p>21 A. We mainly do write-ups, financial</p> <p>22 statements, and once in a while we'll do</p> <p>23 compilation reports, but no auditing.</p> <p>24 Q. No aud --</p> <p>25 A. No. Due to the staff limitations. And</p>	<p>1 Q. And one of them is Swinging Richards; is</p> <p>2 that right?</p> <p>3 A. That is correct.</p> <p>4 Q. And of those ten, are they all businesses</p> <p>5 or individuals or what's the mix?</p> <p>6 A. I do apologize. I've got clients that are</p> <p>7 individuals. They would range from zero to 25.</p> <p>8 And I've got about ten businesses.</p> <p>9 Q. I see.</p> <p>10 A. I do apologize.</p> <p>11 Q. I see. So when you're talking about</p> <p>12 clients, ten, it's ten businesses?</p> <p>13 A. Exactly.</p> <p>14 Q. And on the Swinging Richards, how long</p> <p>15 have you had Swinging Richards as a client -- or I</p> <p>16 think it's 1400?</p> <p>17 A. Northside Drive.</p> <p>18 Q. Right. How long have you had 1400</p> <p>19 Northside Drive as a client?</p> <p>20 A. If my memory serves me correct, since</p> <p>21 2000 -- late 2001, beginning of 2002.</p> <p>22 Q. And how was it that you came to get 1400</p> <p>23 Northside Drive as a client?</p> <p>24 A. The owner was a client at the store on a</p> <p>25 regular basis. He'd buy his light bulbs and</p>

4 (Pages 10 to 13)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 14	Page 16
<p>1 fixtures from our store. We got in conversation 2 that I was going to go into the accounting 3 profession. 4 He took note of that, and one day he 5 contacted me via the previous owner of the store. 6 And through him he -- that's how I got hold of him, 7 because he expressed interest for me to do his 8 books. 9 Q. And that's Mr. Jones? 10 A. That is correct. 11 Q. So he actually phoned you? 12 A. That is correct. 13 Q. Describe for me your role in connection 14 with 1400 Northside Drive. Tell me what you 15 typically do. 16 A. Do you want it from the beginning how I 17 started to -- 18 Q. Yes. 19 A. When I first got to Northside Drive, 1400 20 Northside Drive, they operated on a very primitive 21 accounting basis where no proper records were kept 22 of the income. 23 What they did was give the bank statement 24 to the accountant with the sales figures. He then 25 took the sales figures, worked out the sales tax</p>	<p>1 A. That is correct. 2 Q. And then was it a C.P.A. that was working 3 with her to do the taxes? 4 A. No -- yes, it was a C.P.A. It was Pechter 5 & Company. He never came to the office. They sent 6 everything to him. 7 Q. And all they sent to him was the bank 8 statements and the -- 9 A. And a sales summary for the month. 10 Q. And then how did you change that? What 11 did you do to change that? 12 A. I wasn't happy with that system. I said 13 to them, you have opened yourself to liability. 14 First of all, you're not recording. You don't have 15 an audit trail. You've put yourself at risk. You 16 are handling so much cash and, if money goes 17 missing, there's no way to trace it to anyone. And 18 I said, we need to implement procedures. 19 So I started developing a spreadsheet 20 where we recorded -- we split up the revenue into 21 liquor, beer and wine, soda -- so do you want me to 22 slow down or can I just carry on speaking? 23 Q. Well, why don't we -- let me do this. So 24 you developed a spreadsheet to capture what you 25 felt needed to be captured?</p>
Page 15	Page 17
<p>1 and liquor tax and produced financial statements 2 from the bank statements. 3 When I got there, I decided to have a look 4 at the income stream to make sure that all the 5 income was captured correctly. They -- 6 Q. How did you go about doing that? 7 A. I spoke to the bookkeeper there at the 8 time how she gathered her information. She got 9 records of envelopes where money came in, added it 10 up, entered it on a piece of paper and threw away 11 the paperwork. 12 I wasn't sat -- 13 Q. Was that Karen Caudle at the time? 14 A. No. 15 Q. Who was it? 16 A. Her name was Carol -- let me spell her 17 last name. I think that's how you spell it. 18 L-O-W-E-N-H-A-U-P-H-T. I think that's how you 19 spell it, but I could be wrong. 20 Q. How do you say it? You're just going to 21 leave that for us, huh? 22 A. I shall leave that to you. 23 Q. Fair enough. So she was just recording 24 things on envelopes, depositing the money and 25 throwing away the envelopes?</p>	<p>1 A. That is correct. 2 Q. And let's take -- and maybe I can show you 3 a spreadsheet that I have from them, and maybe 4 that's the spreadsheet you're talking about. 5 A. That is correct. 6 Q. Let's see. 7 MR. LUKAS: So what I've done here, 8 Counsel, is I've basically taken all the 9 financials, which was the last batch of 10 documents you produced to me, which are 11 Bates stamped number SR 02094 through SR 12 002131. 13 Later on during the depo, if it becomes 14 necessary to split them out into separate 15 exhibits, we can. But I thought we'd just 16 put them all in one exhibit and I'll just 17 refer to the page number. If that becomes a 18 hassle, you let me know. 19 Go ahead and mark that. 20 (Whereupon, Plaintiff's 21 Exhibit 5 was marked.) 22 BY MR. LUKAS: 23 Q. Mr. Haralambus, I'm showing you what's 24 been marked as Plaintiff's Deposition Exhibit 25 Number 5. I'd like you to turn to Page 21005</p>

5 (Pages 14 to 17)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 18	Page 20
<p>1 (sic). It should be the whole back section of that 2 document, where it starts the whole back section of 3 that. 4 A. I'm sorry. 21? 5 Q. 2105. 6 A. Yes. I've got it. 7 Q. Is this the spreadsheet you developed that 8 you were testifying to? 9 A. That is correct. 10 Q. So is this a spreadsheet you developed for 11 Karen to enter things into or for you to enter 12 things into? 13 A. This was developed for the bookkeeper, 14 whether it was her or someone else, to enter the 15 information into. 16 Q. Oh, that's right. Karen wasn't there at 17 the time? 18 A. That is correct. 19 Q. So you developed this spreadsheet so that 20 the bookkeeper would keep accurate records of 21 basically the flow of money? 22 A. That is correct. For every day. 23 Q. Do you know what this is called or what 24 the bookkeeper currently calls this? 25 A. I call this a daily summary sheet.</p>	<p>1 we're talking about liquor, beer, wine, soda, door 2 and total? 3 A. That section over there refers to working 4 out sales tax and liquor tax. Liquor tax, beer, 5 wine, soda and door is subject to sales tax. 6 Liquor tax would be only for liquor and wine. 7 So if you look at the top number, the top 8 line, you'll see 73,062 and 75 cents. That is a 9 total of the 57,041 and 25 cents and 16,021.50. If 10 you add them together, it should come to that. 11 Q. I'm sorry. I lost you. Where is the 12 number that that should come to? 13 A. 57,000 plus your 16,000 comes to 73,062 14 and 75 cents. Okay? 15 Q. Okay. 16 A. And I take out the -- then I work out the 17 liquor tax from that, which comes to 2,128 dollars 18 and four cents. 19 Q. But there's liquor tax only on liquor. 20 You said liquor and wine? 21 A. Beer and wine, yeah. 22 Q. Oh, so there's liquor tax on liquor, beer 23 and wine? 24 A. That is correct. 25 Q. And if you add the 57,000 for liquor and</p>
Page 19	Page 21
<p>1 Q. Actually, this one appears to be a month's 2 worth; correct? 3 A. That is correct. 4 Q. But there's also a daily one that I 5 imagine gets added up to create the monthly one? 6 A. The monthly one feeds into each day, and 7 that's a summary for 31 days. 8 Q. You mean the daily one feeds into the 9 monthly one? 10 A. That is correct. 11 Q. So and what we're looking at here is the 12 monthly one, not the daily one? 13 A. That is correct. 14 Q. But the daily one has the same categories 15 naming the same thing? 16 A. Exactly. 17 Q. And what we're looking at here on 2105 is 18 a compilation of all of November 2011, it appears? 19 A. That is correct. 20 Q. And so maybe the best way to figure out 21 what you decided to do with respect to capturing 22 the money is to go through this document? 23 A. That is correct. 24 Q. Let's look at this document. Can you 25 explain to me what this upper portion is where</p>	<p>1 the 16 some thousand for beer and wine, that's 2 where we get the 73,062.75? 3 A. That is correct. 4 Q. But you don't apply the liquor tax to that 5 74,000 dollar number? 6 A. I will bring -- what I do, I'll work out 7 the liquor tax at 3 percent, and then I'll take it 8 out. 9 Q. And that's what the 2,128 dollars and four 10 cents is is the actual tax? 11 A. That is the actual tax, yeah. 12 Q. And when you back that out of the 13 liquor -- 14 A. Right. 15 Q. -- it's -- 16 A. It's 54,000. Then you've got 16,000. 17 Right? And from these totals I will back out the 18 sales tax. 19 Q. And that's where we get the 20 50,845 dollars -- 21 A. That is correct. 22 Q. -- and 46 cents for liquor, and the 14,834 23 dollars and 72 cents for beer and wine? 24 A. That is correct. 25 MR. SCHLANGER: Jimmy, let him finish</p>

6 (Pages 18 to 21)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 22	Page 24
<p>1 his question. Pause after he asks the 2 question. Okay? 3 THE WITNESS: Sorry about that. 4 MR. SCHLANGER: That's okay. 5 BY MR. LUKAS: 6 Q. And you do the same equation with soda, 7 because there's a sales tax on that; correct? 8 A. There is not a sale -- yes, there is a 9 sales tax on soda. 10 Q. And there's a sales tax on the door 11 charge? 12 A. That is correct. 13 Q. And after you back out the taxes for these 14 items, then you put them down in this other ledger 15 down below; is that correct? Or I'm sorry, the 16 bookkeeper does? 17 A. That is correct. 18 Q. And that's why the liquor number down 19 below here is -- first of all, what does DR and 20 what does CR stand for? 21 A. Debit, credit. 22 Q. So and that's why in the credit column we 23 have 50,845 dollars and 56 cents for liquor, 24 because that's the liquor after the sales tax is 25 paid?</p>	<p>1 and, from what I understand, he wants to have a 2 dancer there and the dancer -- so the patron pays 3 the club for that booth, from what the way I 4 understand it. So the patron pays for that time, 5 for the booth. 6 Q. A private booth? 7 A. I would presume so, yeah. It's a V.I.P. 8 Q. V.I.P. room; is that -- 9 A. That is what they called it. So whether 10 they will pay cash or they'll pay on credit card, 11 you'll see at the bottom V.I.P. credit and V.I.P. 12 cash, they mean the same. 13 Q. So in that 23,345, it doesn't matter 14 whether it's cash or credit -- 15 A. No. 16 Q. -- but it's for the same thing? 17 A. That is correct. The cash would be 18 23,000, and the credit would be 9,919 -- sorry, 19 9,900. 20 Q. So if we want to -- and is this the 21 portion of the V.I.P. room that is paid for the 22 room rental or for the dancer or both? 23 A. For the room rental. 24 Q. So if we took those two line items, the 25 V.I.P. cash and the V.I.P. credit, that would be</p>
Page 23	Page 25
<p>1 A. That is correct. 2 Q. And so on with the beer and wine, soda and 3 door; correct? 4 A. That is correct. 5 Q. What is this next item, V.I.P. cash? 6 A. When I first started with the club as the 7 accountant, I didn't understand most of their 8 terminology that they used. So for me to 9 understand it, I created these terminologies that I 10 could understand. 11 Whether they are industry-related or not, 12 I don't know. But this is something that I could 13 understand and I could explain to anyone that was 14 coming in. This is how I see it. 15 Q. So hopefully you'll be able to explain 16 them to me. 17 A. That is correct. 18 Q. But the goal is, if we took this whole 19 bottom section that starts with liquor and ends 20 with tip, we should be -- if we talk about each of 21 these columns, we should be capturing all of the 22 money that passes through 1400 Northside Drive? 23 A. That is correct. 24 Q. Great. So what is V.I.P. cash? 25 A. V.I.P. cash is when the patron comes in</p>	<p>1 the sum total for November 2011 of the club's share 2 or the club's room rental for those V.I.P. rooms? 3 A. That is correct. 4 Q. Let's talk about the next one, fines. 5 What's that? 6 A. I'm just -- the way it was explained to me 7 is the dancers had contracted saying that they 8 would be there at a specific time. And if they 9 were late, they paid monies to the club. I 10 terminated it fine. That was my terminology, fine. 11 I said, that's it, okay, it's a fine. 12 Q. Well, they call it a fine in the agreement 13 with the employee, too, don't they? 14 A. Yeah. Well, exactly. When they came to 15 me and they said this is a fine, I said, okay, we 16 will leave it "fine" then. 17 Q. So that's not your phrase "fine," that's 18 their phrase "fine"? 19 A. I'm just trying to recall. I would say 20 so, yes. 21 Q. I mean, you didn't make up these -- I 22 mean, you labeled them, but they told you what 23 these monies were for; right? 24 A. Yes. 25 Q. They had to explain to you --</p>

7 (Pages 22 to 25)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 26	Page 28
<p>1 A. Yes.</p> <p>2 Q. -- where these streams of income were</p> <p>3 coming from; correct?</p> <p>4 A. Yeah. They just -- yes. I would just say</p> <p>5 yes.</p> <p>6 Q. And is it your understanding that the</p> <p>7 dollar amount in that for fines was just for being</p> <p>8 late or were there other fines that were included</p> <p>9 in that, if you know?</p> <p>10 A. From what I understand, only for being</p> <p>11 late.</p> <p>12 Q. So in November of 2011, there was</p> <p>13 3,575 dollars collected from dancers for being</p> <p>14 late?</p> <p>15 A. Yes.</p> <p>16 Q. And then the next one says food. What's</p> <p>17 that?</p> <p>18 A. I set up a system just in case they were</p> <p>19 selling food, that would be a -- that would go in</p> <p>20 that slot.</p> <p>21 Q. But they weren't selling food in November</p> <p>22 of 2011; correct?</p> <p>23 A. They do not sell food.</p> <p>24 Q. They still don't?</p> <p>25 A. They still don't.</p>	<p>1 was it just Mr. Jones?</p> <p>2 A. Just Mr. Jones.</p> <p>3 Q. And was he the one that okayed this</p> <p>4 system?</p> <p>5 A. He has looked at it, yes. And I presume</p> <p>6 he was happy with it.</p> <p>7 Q. You're still their C.P.A.; correct?</p> <p>8 A. Yes.</p> <p>9 Q. What about tip out, what does "tip out"</p> <p>10 mean?</p> <p>11 A. I'm just going blank for a second.</p> <p>12 Q. Maybe I can help you. Is that the house</p> <p>13 fee that the dancers pay every night?</p> <p>14 A. That is correct. That is correct. That's</p> <p>15 the dancers, yeah.</p> <p>16 Q. What's your understanding of what that</p> <p>17 payment is for?</p> <p>18 A. For allowing to dance there. That's the</p> <p>19 way I understood it.</p> <p>20 Q. Gratuity, what is that line for?</p> <p>21 A. That's --</p> <p>22 Q. Now, that one, the previous ones we talked</p> <p>23 about were all in the credit column, now we move</p> <p>24 over to the debit column. What is gratuity and why</p> <p>25 is it in the debit column?</p>
Page 27	Page 29
<p>1 Q. That's sort of a placeholder for if they</p> <p>2 put in a kitchen or they make some other</p> <p>3 arrangements?</p> <p>4 A. That would save me time to go and</p> <p>5 reconstruct everything again.</p> <p>6 Q. How about -- so was this -- you put this</p> <p>7 together in around 2001, is that right, this sheet?</p> <p>8 A. I could presume that, yes, around -- well,</p> <p>9 definitely it was in a work in progress, but yes.</p> <p>10 I just wasn't happy with the way things were</p> <p>11 recorded. Their whole argument was, for tax</p> <p>12 purposes, there's one line item, revenue, and they</p> <p>13 were happy with that. I was not happy with that.</p> <p>14 Q. And Pechter was apparently happy with</p> <p>15 that, or fine with that?</p> <p>16 MS. MURPHEY: Objection. Calls for</p> <p>17 speculation.</p> <p>18 THE WITNESS: I don't know. I've never</p> <p>19 spoken to him.</p> <p>20 BY MR. LUKAS:</p> <p>21 Q. And was -- when you told Mr. Jones you</p> <p>22 wanted to change it and track all this money, he</p> <p>23 was okay with that?</p> <p>24 A. Yes.</p> <p>25 Q. Was there any other owners at the time or</p>	<p>1 A. Like gratuity is in case -- this relates</p> <p>2 to the patrons only, in case they come in and get a</p> <p>3 free champagne or whatever. But that is hardly</p> <p>4 ever used. That is hardly ever used.</p> <p>5 Q. Some people call it comping, like comping</p> <p>6 drinks. Is that what that is?</p> <p>7 A. It could mean that as well, yes.</p> <p>8 Q. So anything that the customer gets for</p> <p>9 free that they would normally pay for?</p> <p>10 A. That is correct.</p> <p>11 Q. The next one is cash. What is cash? Why</p> <p>12 is that column there?</p> <p>13 A. That is when the patrons want to take</p> <p>14 their credit card and they need cash, where if the</p> <p>15 A.T.M. is out, they'd go in and get -- so they</p> <p>16 would run the card and get cash.</p> <p>17 Q. So for a circumstance where one of the</p> <p>18 employees has to use the cash register as an</p> <p>19 A.T.M.?</p> <p>20 A. That is correct.</p> <p>21 Q. And the --</p> <p>22 MR. SCHLANGER: Wait, wait, wait.</p> <p>23 Customer or employee?</p> <p>24 THE WITNESS: Basically what happens</p> <p>25 that a customer needs 20 dollars. He'll go</p>

8 (Pages 26 to 29)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 30	Page 32
<p>1 and ask the --</p> <p>2 BY MR. LUKAS:</p> <p>3 Q. Employee?</p> <p>4 A. -- the employee for 100. They will run it</p> <p>5 through for 100. The customer will get 95, and</p> <p>6 there will be a service fee of five.</p> <p>7 Q. So in that scenario, it's a 5 percent</p> <p>8 service?</p> <p>9 A. I think. It can change. I'm not too</p> <p>10 sure. I think it's a 5 percent, yeah.</p> <p>11 Q. That obviously didn't happen in November.</p> <p>12 The cash machine must have been full for -- or at</p> <p>13 least have enough money in November of 2011 for</p> <p>14 that not to have to happen?</p> <p>15 A. Yeah.</p> <p>16 Q. The next one is paid-out tips. What's</p> <p>17 paid-out tips?</p> <p>18 A. That is -- that refers to the bartenders</p> <p>19 and the waiters. When the patron pays and gives a</p> <p>20 tip, it is recorded.</p> <p>21 Q. When they give a tip with -- that's all</p> <p>22 tips or just credit cards?</p> <p>23 A. Just the credit cards.</p> <p>24 Q. So when a bartender --</p> <p>25 A. So yes.</p>	<p>1 A. Because we record them as an expense.</p> <p>2 Your debit is normally an expense for this</p> <p>3 spreadsheet, and your credits are for incomes.</p> <p>4 Q. Let's keep going. Sales tax?</p> <p>5 A. Sales tax is recording the liability to</p> <p>6 pay, as with liquor tax.</p> <p>7 Q. So that sales tax line actually according</p> <p>8 to the math, I'm looking above, that sales tax line</p> <p>9 includes liquor tax; correct?</p> <p>10 MR. SCHLANGER: No.</p> <p>11 THE WITNESS: No, it does not.</p> <p>12 BY MR. LUKAS:</p> <p>13 Q. Oh, I see. It's just the sales tax. It</p> <p>14 includes the sales tax on the liquor?</p> <p>15 A. That is correct.</p> <p>16 Q. I see. And that 8,369 dollars and 94</p> <p>17 cents that's in this bottom category, we see that</p> <p>18 captured above when you go across the line for</p> <p>19 sales tax?</p> <p>20 A. That is correct.</p> <p>21 Q. And then the liquor tax is captured just</p> <p>22 below that?</p> <p>23 A. That is correct.</p> <p>24 Q. And then V.I.P. credit we already talked</p> <p>25 about?</p>
Page 31	Page 33
<p>1 Q. -- and waiter gets a tip with a credit</p> <p>2 card, that's what that's reflecting?</p> <p>3 A. That is correct.</p> <p>4 Q. What is your understanding as to how the</p> <p>5 bartender and waiter are paid for that money? Is</p> <p>6 that something that's a check cut for or do they</p> <p>7 take cash from the till?</p> <p>8 A. They take cash straight from the register.</p> <p>9 Q. And P.O. other, what's P.O. other?</p> <p>10 A. Paid-outs or other. That is if the</p> <p>11 company needs supplies for that evening. Or if the</p> <p>12 A.T.M. runs out of money, they will take money out</p> <p>13 of the cash register and fill up the A.T.M.s with</p> <p>14 20 dollar bills.</p> <p>15 These supplies are normally less than a</p> <p>16 hundred dollars. The A.T.M.s will normally be</p> <p>17 filled up with their 20s.</p> <p>18 Q. This is a scenario where it's like, hey,</p> <p>19 we're out of, you know, napkins, someone runs out</p> <p>20 and goes and buys napkins for the night?</p> <p>21 A. That is correct.</p> <p>22 Q. And why are these columns -- why are the</p> <p>23 ones in this column gratuities, cash, paid-out tips</p> <p>24 and paid-out other, why are they in the debit</p> <p>25 category?</p>	<p>1 A. That is correct.</p> <p>2 Q. And room, what's room?</p> <p>3 A. Initially I got confused with room and</p> <p>4 V.I.P. credit and V.I.P. cash, but they basically</p> <p>5 mean the same thing.</p> <p>6 Q. So although that line item is still on</p> <p>7 there, it says zero dollars, and frankly it's not</p> <p>8 used at all?</p> <p>9 A. Sometimes there's an input error, and we</p> <p>10 put it in, instead of room it's V.I.P. credit and</p> <p>11 vice versa. Yes, it will come up once in a while,</p> <p>12 but they basically means the same thing.</p> <p>13 Q. If it comes up, it's a mistake?</p> <p>14 A. It is an input error.</p> <p>15 Q. Right.</p> <p>16 A. That's what I call it, yeah.</p> <p>17 Q. Because the money should be in either</p> <p>18 V.I.P. cash or V.I.P. credit?</p> <p>19 A. That is correct.</p> <p>20 Q. What's the next column where it says ENT?</p> <p>21 A. ENT, this is where the -- this relates to</p> <p>22 the dancer's IOU. The dancer goes in, does his</p> <p>23 dance, let's say he gets paid a hundred dollars,</p> <p>24 that is what is recorded there. So the company</p> <p>25 sees that as income coming in.</p>

9 (Pages 30 to 33)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 34	Page 36
<p>1 Q. And that's just credit card V.I.P. room 2 payments; correct? 3 A. That is correct. 4 Q. So the cash paid to entertainers for their 5 services in the V.I.P. rooms is not captured 6 anywhere in your system; correct? 7 A. No, it is not. 8 Q. And in fact, the cash collected by the 9 employ -- or the dancers for dances they do outside 10 of the V.I.P. room, whether it be on the floor or 11 on the stage, is not captured anywhere in your 12 system either; correct? 13 A. That is correct. 14 Q. What's the next line, SVCH? 15 A. Service charge. 16 Q. And what is service charge? 17 A. Service charge comprises of two items. 18 The first item is when the patron gets charged 5 or 19 10 percent for the monies he wants from the A.T.M. 20 that's not there, so the employee will give him 21 cash from the register. That small percentage will 22 go in that column. 23 The other one is when the patron will be 24 charged an extra 10 percent for the room. 25 Q. And that 10 percent the customer is</p>	<p>1 Q. I see. So there's 10 percent taken off of 2 that piece as well? 3 A. It's only that 10 percent that -- yeah. 4 Q. But that's not -- the customer is not 5 paying that, that's coming out of the -- 6 A. Dancers. 7 Q. -- the dancers' money that they were 8 getting? 9 A. That is correct. 10 Q. So there's sort of two charges, there's a 11 10 percent service charge to the customer for the 12 room piece of the rental; correct? 13 A. Yes. 14 Q. And then the customer pays whatever the 15 entertainer amount is; correct? 16 A. That is correct. 17 Q. And then when the bookkeeper goes to cut 18 the check the next day, another 10 percent is 19 backed out because the customer paid the 20 entertainer with a credit card? 21 A. That 10 percent is actually like a 22 processing fee, the way we see it. 23 Q. I see. So you're charging 10 percent just 24 for the room piece, and then you're charging 25 10 percent to the dancer on the V.I.P. amount -- or</p>
Page 35	Page 37
<p>1 charged for using a credit card, it's just when 2 they use a credit card; correct? 3 A. That is correct. 4 Q. And that 10 percent is reflected in -- oh, 5 I'm sorry. The 2,807 dollars, that's what's 6 captured there in the SVCH line? 7 A. That is correct. 8 Q. And is it your understanding it's 9 10 percent for the room rental piece or for the 10 piece that the entertainer gets or both? 11 A. From what I understand, only for the room. 12 Q. And is it your understanding that, prior 13 to -- oh, going back to the entertainer money where 14 it's 28,135 -- 15 A. Yes. 16 Q. -- what is your understanding of how the 17 entertainer receives that money, the credit card -- 18 A. The total amount gets captured in this 19 column here; right? 20 Q. Right. 21 A. At the end of the day, at the end of the 22 evening, an IOU slip is attached to the batch 23 report of the night. A check will then be made out 24 to the entertainment to equalling 90 percent of 25 that amount.</p>	<p>1 on the IOU amount as a processing fee? 2 A. That processing fee involves a few steps 3 in terms of paying -- because when you pay by card, 4 there's a 3 percent charge that the -- that 5 American Express and they take. 6 Another thing is that there may be a 7 customer complaint and that that amount is 8 reversed. If that amount is reversed, the dancer 9 keeps his money and the company will take the hit. 10 Q. So it's the 10 percent is to help cover 11 the credit card company's charge of 3 percent -- 12 A. Right. 13 Q. -- and to cover the -- for the contingency 14 of that charge being reversed and the club getting 15 nothing and the dancers still getting paid? 16 A. That is correct. 17 Q. How often does that happen? 18 A. It happens quite a bit. 19 Q. How often is "quite a bit"? How often 20 does a credit card charge get reversed in the 21 V.I.P. context? 22 A. It may get reversed I'd say about five 23 times for every three months. 24 Q. And where is that captured? When that 25 event occurs, where is that captured in your</p>

10 (Pages 34 to 37)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 38	Page 40
<p>1 system?</p> <p>2 A. It'll be under bank fees or credit card</p> <p>3 fees.</p> <p>4 Q. It's not captured on this spreadsheet?</p> <p>5 A. No, it is not.</p> <p>6 Q. And we'll look at your other -- it is</p> <p>7 captured elsewhere, though?</p> <p>8 A. It is captured elsewhere.</p> <p>9 Q. It's captured on the general ledger?</p> <p>10 A. That is correct.</p> <p>11 Q. We'll talk about those categories.</p> <p>12 And then the last item on this particular</p> <p>13 document, it says tips -- or tip, I'm sorry. What</p> <p>14 is that? What's tip?</p> <p>15 A. That relates to the waiters and</p> <p>16 bartenders' tip. We record that as income coming</p> <p>17 in. As you see, it will accrue to the paid-out</p> <p>18 tips. It's basically a wash. We show it as</p> <p>19 income, and it gets taken out as an expense.</p> <p>20 Q. So those two other, same thing, it's just</p> <p>21 one's in the debit category and one's in the credit</p> <p>22 category, that being paid-out tips and tip?</p> <p>23 A. That is correct. And it's just showing an</p> <p>24 audit trail of how we account for income.</p> <p>25 Q. And tell me why you do that.</p>	<p>1 Q. So -- I'm sorry. Go ahead.</p> <p>2 A. I actually would like them to get a check.</p> <p>3 But that's the way the system works.</p> <p>4 Q. And is?</p> <p>5 A. And it is.</p> <p>6 Q. So the reason you back it out as a -- the</p> <p>7 reason you have it in both the credit and the debit</p> <p>8 for waiters and bartenders is because they're</p> <p>9 taking cash from the till that evening; correct?</p> <p>10 A. That is correct.</p> <p>11 Q. And there would otherwise be no audit</p> <p>12 trail for that; right?</p> <p>13 A. That is correct.</p> <p>14 Q. And with the entertainers, you have a</p> <p>15 trail because you have the IOU and you have the</p> <p>16 check stubs and you know exactly how much you paid</p> <p>17 them?</p> <p>18 A. That is correct.</p> <p>19 Q. Has there been any discussion about doing</p> <p>20 the same with the bartenders and waiters as you do</p> <p>21 with the entertainers with respect to cutting</p> <p>22 checks instead of just letting them take the money</p> <p>23 from the till?</p> <p>24 A. You know, based on this information and</p> <p>25 this court case, I think we're going to have to</p>
Page 39	Page 41
<p>1 A. Because when you get your credit card</p> <p>2 report, it will show a total amount, let's say it's</p> <p>3 a hundred --</p> <p>4 Q. Let's say it's 10,449 dollars and 54</p> <p>5 cents.</p> <p>6 A. Right. But the thing about it is, when</p> <p>7 the batch report comes in, right, we get a total</p> <p>8 amount which will represent a higher amount, and we</p> <p>9 still have to record that as income. So we show</p> <p>10 that as coming in. But because the employees take</p> <p>11 cash out, we've got to show it's been taken out as</p> <p>12 well.</p> <p>13 Q. But you don't do the same with the</p> <p>14 entertainers, you don't take out the 28,135 dollars</p> <p>15 you have on the credit line you don't back out as a</p> <p>16 debit anywhere on this?</p> <p>17 A. No. We -- they will issue them a check.</p> <p>18 Because then we've got an audit trail of the IOU</p> <p>19 matches up with the check that they have received.</p> <p>20 Q. I see. Because the reason you do this is</p> <p>21 because the waiters and bartenders are walking away</p> <p>22 with cash at night?</p> <p>23 A. That is correct.</p> <p>24 Q. I see.</p> <p>25 A. I would like them to --</p>	<p>1 revise a lot of what happens there.</p> <p>2 Q. So we slugged through this list, it looks</p> <p>3 like.</p> <p>4 A. Can I just say something?</p> <p>5 Q. No.</p> <p>6 A. Sorry.</p> <p>7 Q. I'm asking questions and you answer them.</p> <p>8 A. Sorry.</p> <p>9 Q. The category where it says 10100, what is</p> <p>10 that? That's sort of just a number floating out</p> <p>11 there to me.</p> <p>12 A. That's a balancing figure.</p> <p>13 Q. And that's a balancing figure representing</p> <p>14 what?</p> <p>15 A. You've got income coming in, your debit,</p> <p>16 comes to a total of 206,694.</p> <p>17 Q. Yes.</p> <p>18 A. Then you've got expenses totalling about</p> <p>19 14,000. You've got 565, 10,444 and 3,240. You've</p> <p>20 got your gratuity, cash, paid-in tips and paid-out</p> <p>21 other.</p> <p>22 Q. So that the 10100 is basically the grand</p> <p>23 total with the debits backed out?</p> <p>24 A. That is correct.</p> <p>25 Q. And what does 10100 mean? What is that?</p>

11 (Pages 38 to 41)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 42	Page 44
<p>1 A. This is just my suspense account.</p> <p>2 Q. What is it, suspense?</p> <p>3 A. Suspense. Well, it's, yeah,</p> <p>4 S-U-S-P-E-N-C-E (sic).</p> <p>5 Q. And what does that mean?</p> <p>6 A. It just means that we have 192,000 of</p> <p>7 outstanding amount, you've got your income less</p> <p>8 your expenses. You've got that is your net amount.</p> <p>9 Because when you do accounting, for every debit</p> <p>10 there must be a credit; right?</p> <p>11 Q. So the 192,439 dollars and 59 cents is</p> <p>12 basically the net income?</p> <p>13 A. That is correct.</p> <p>14 Q. And that's the net income for November</p> <p>15 2011?</p> <p>16 A. Let's put it -- let's call it gross</p> <p>17 income. Because we have not taken other expenses.</p> <p>18 Q. Okay. And then the rest of these</p> <p>19 documents as you page through, they look pretty</p> <p>20 much to all be the same, but just from different</p> <p>21 months to different years. Has there been -- so we</p> <p>22 marched through one from November of 2011.</p> <p>23 Have there been any changes to this</p> <p>24 document or this process since then?</p> <p>25 A. No, there's not.</p>	<p>1 for the contingency so you wouldn't have to do</p> <p>2 that; correct?</p> <p>3 A. That is correct.</p> <p>4 Q. For example, like food?</p> <p>5 A. That is correct.</p> <p>6 Q. There was one other document in this pile</p> <p>7 that was different, and I wanted to go to that.</p> <p>8 And that's on Page 2119. What is 2119?</p> <p>9 A. 2119 is a summary of January, February,</p> <p>10 March, April, May, June, July, up to the end of</p> <p>11 December for 2012. So the report that you just</p> <p>12 showed me --</p> <p>13 Q. The one on 2105?</p> <p>14 A. Right.</p> <p>15 Q. Yes.</p> <p>16 A. -- should correspond to these totals here.</p> <p>17 Q. I see. So the one we went through piece</p> <p>18 by piece was for one month?</p> <p>19 A. That is correct.</p> <p>20 Q. And as I understand --</p> <p>21 MR. SCHLANGER: Excuse me. Let me just</p> <p>22 correct them. He's not looking at the right</p> <p>23 year.</p> <p>24 MR. LUKAS: No, I get that. I was going</p> <p>25 to clean that up.</p>
Page 43	Page 45
<p>1 Q. And prior to this, how far back before</p> <p>2 there were any changes made to it? You said it was</p> <p>3 a work in progress. When did it stop being a work</p> <p>4 in progress and start being actually what we're</p> <p>5 looking at here for November of 2011?</p> <p>6 A. Maybe six months after that.</p> <p>7 Q. So if we go back six months into 2010?</p> <p>8 A. Sorry. No, no, no.</p> <p>9 Q. No.</p> <p>10 A. For this period that we've covered, it's</p> <p>11 not changed. I'm saying a work in progress from</p> <p>12 the time I started --</p> <p>13 Q. Yes.</p> <p>14 A. -- within six months, I said, okay, this</p> <p>15 is going to be the standard one.</p> <p>16 Q. I see.</p> <p>17 A. Yeah.</p> <p>18 Q. So at least comfortably by the end of</p> <p>19 2002, for example, this is how it was and this is</p> <p>20 how it is?</p> <p>21 A. Yes.</p> <p>22 Q. There hasn't been new categories put in or</p> <p>23 taken out?</p> <p>24 A. No.</p> <p>25 Q. And in fact, you put in some categories</p>	<p>1 BY MR. LUKAS:</p> <p>2 Q. So Karen enters the numbers into the</p> <p>3 system so that it generates a daily report that</p> <p>4 resembles this; correct?</p> <p>5 A. The spreadsheet has a big -- they've got</p> <p>6 amounts. They've got cash registers, bank one,</p> <p>7 bank two, bank three, bank four. They've got a</p> <p>8 section for V.I.P. room, the cash. They've got for</p> <p>9 the door. They've got for the fines and that.</p> <p>10 Then what happens is the monthly will feed</p> <p>11 into each of these cells and draw those amounts in.</p> <p>12 Q. Just like this monthly draws in the</p> <p>13 dailies, this one we're looking at to 2119 draws in</p> <p>14 all the monthlies in these same categories that we</p> <p>15 discussed?</p> <p>16 A. That -- no. That I created myself for</p> <p>17 Susan to understand.</p> <p>18 Q. Oh, I see.</p> <p>19 A. Yeah.</p> <p>20 Q. So this document we're looking at, the SR</p> <p>21 2119, that's something that you created special for</p> <p>22 this lawsuit?</p> <p>23 A. That is correct.</p> <p>24 Q. I see. In your normal system, you don't</p> <p>25 have an annual summary?</p>

12 (Pages 42 to 45)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 46	Page 48
<p>1 A. That is correct.</p> <p>2 Q. And this is something you did in</p> <p>3 connection with the lawsuit?</p> <p>4 A. That is correct.</p> <p>5 Q. I see. Not something that is normally</p> <p>6 done?</p> <p>7 A. That is correct.</p> <p>8 Q. So going back to the cover again so we're</p> <p>9 talking about the same thing, SR 2105 -- I'm sorry.</p> <p>10 It's not the cover in the one you're looking at.</p> <p>11 A. That's okay. Yeah.</p> <p>12 Q. Going back to that, Karen's spreadsheet</p> <p>13 from which this pulls is different, it looks</p> <p>14 different than this because it has drawers and so</p> <p>15 forth; correct?</p> <p>16 A. That is correct.</p> <p>17 Q. I don't believe I have that.</p> <p>18 MS. MURPHEY: No. I told you we had</p> <p>19 daily for the last three years, but it's a</p> <p>20 huge amount of documents, and I was going to</p> <p>21 give you the monthly summaries and the</p> <p>22 annual summaries. And if you felt you</p> <p>23 needed more than that --</p> <p>24 MR. LUKAS: I think I would like to see</p> <p>25 the daily, just an example of a daily, maybe</p>	<p>1 Q. Perfect. Let's talk about that, then.</p> <p>2 What is this document?</p> <p>3 A. This document is basically the income</p> <p>4 statement for the year relating to 2013.</p> <p>5 Q. Now, is this something that is generated</p> <p>6 at Northside Drive or is this something that's</p> <p>7 generated by you?</p> <p>8 A. This is generated by me.</p> <p>9 Q. And I assume you take the numbers that you</p> <p>10 have from the other document that we just looked at</p> <p>11 to generate this document?</p> <p>12 A. That is correct.</p> <p>13 Q. Again, I want to do a march through these</p> <p>14 line items. And it seems that what we just did may</p> <p>15 help us do that. But the first set of line items</p> <p>16 are for revenues; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And the first four seem fairly</p> <p>19 self-explanatory, liquor, beer, wine, beverage and</p> <p>20 food, and cover charge?</p> <p>21 A. That is correct.</p> <p>22 Q. And those are all the ones we talked about</p> <p>23 in connection with on Page 2105 where there were</p> <p>24 taxes involved or taxes applied; correct?</p> <p>25 A. That is correct.</p>
Page 47	Page 49
<p>1 that matches with this one probably since we</p> <p>2 talked about this one, sometime in November</p> <p>3 of 2011, you give me a daily or two just so</p> <p>4 that I know what they look like, Susan.</p> <p>5 MS. MURPHEY: Okay.</p> <p>6 MR. LUKAS: And then if I need more,</p> <p>7 I'll come dig through your boxes, I guess.</p> <p>8 BY MR. LUKAS:</p> <p>9 Q. Thank you. I think I understand that.</p> <p>10 And then as we page through the rest of</p> <p>11 this document, it appears to be these monthly</p> <p>12 summaries which are created in the normal course of</p> <p>13 business?</p> <p>14 A. That is correct.</p> <p>15 Q. All right. Let's stay on Exhibit 1 (sic).</p> <p>16 MR. SCHLANGER: Four (sic).</p> <p>17 THE REPORTER: Five, actually.</p> <p>18 MR. LUKAS: Oh, I'm sorry. Five. None</p> <p>19 of us have it right.</p> <p>20 BY MR. LUKAS:</p> <p>21 Q. Sorry. I'm trying to find my copy where I</p> <p>22 wrote all over them. Ah, here we go.</p> <p>23 Is your cover page or the top page on</p> <p>24 Plaintiff Deposition Exhibit 5, is it SR 2094?</p> <p>25 A. Yes.</p>	<p>1 Q. Then the next is for sales V.I.P. You</p> <p>2 know what might be helpful -- well, let me ask you,</p> <p>3 what is sales V.I.P.?</p> <p>4 A. That would be the cash and the credit card</p> <p>5 V.I.P. on this statement here.</p> <p>6 Q. And that's, when we were looking at the</p> <p>7 monthly summary --</p> <p>8 A. Right.</p> <p>9 Q. -- that was called V.I.P. cash and V.I.P.</p> <p>10 credit?</p> <p>11 A. That is correct.</p> <p>12 Q. So if we took those monthly summaries</p> <p>13 together or --</p> <p>14 A. Right.</p> <p>15 Q. -- if we add those together, this would be</p> <p>16 the annual for sales V.I.P.?</p> <p>17 A. That is correct.</p> <p>18 Q. Next says sales tip-out.</p> <p>19 A. That would be the tip-out --</p> <p>20 Q. Would be that house fee we were talking</p> <p>21 about?</p> <p>22 A. That is correct.</p> <p>23 Q. And the next says service charge. What is</p> <p>24 that?</p> <p>25 A. SVCH on that piece of paper there.</p>

13 (Pages 46 to 49)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 50	Page 52
<p>1 Q. Fines we talked about, and that's on that</p> <p>2 previous spreadsheet; correct?</p> <p>3 A. Yes.</p> <p>4 Q. And then entertainers and waiters, what's</p> <p>5 included in that one?</p> <p>6 A. I've added together the entertainers and</p> <p>7 the waiters. I just, at that stage I saw them as</p> <p>8 one, as one and the same. But obviously they're</p> <p>9 not. But I just included them as together.</p> <p>10 Because the amounts were so small, I'd say, you</p> <p>11 know, I'll just add them together.</p> <p>12 Q. So that line item on Page 1 of Exhibit 5,</p> <p>13 or Page 2094 --</p> <p>14 A. Right.</p> <p>15 Q. -- if we went back to the summary, the</p> <p>16 monthly summary that we went through, we would add</p> <p>17 paid-out tips and entertainers to get that amount?</p> <p>18 A. That is correct.</p> <p>19 Q. And then when you add all those together,</p> <p>20 you get this total revenue number of 2.2 million</p> <p>21 and some change?</p> <p>22 A. Yes.</p> <p>23 Q. The next set of line items is cost of</p> <p>24 sale. And what do these three categories</p> <p>25 represent?</p>	<p>1 Q. And what does that represent?</p> <p>2 A. That represents the checks that were</p> <p>3 written out to the dancers.</p> <p>4 Q. And then the next -- so the</p> <p>5 488,000 dollars that we see there, is that -- was</p> <p>6 that also part of the entertainers and waiters line</p> <p>7 we had above in the revenues?</p> <p>8 A. No.</p> <p>9 Q. What's the difference?</p> <p>10 A. I could have lumped them together, but I</p> <p>11 did not. And I've got them at the bottom, and if</p> <p>12 you go down one, two, three, four -- the fifth</p> <p>13 line --</p> <p>14 Q. Yes.</p> <p>15 A. -- you'll see paid out to waiters, the 75,</p> <p>16 I've got them there.</p> <p>17 Q. Oh, I'm sorry. Maybe you didn't</p> <p>18 understand what I'm saying. In the entertainers</p> <p>19 and waiters above in the revenue line --</p> <p>20 A. Yes.</p> <p>21 Q. -- included in that total, the 580,000, is</p> <p>22 this 488,000?</p> <p>23 A. That is correct.</p> <p>24 Q. And you're saying that also in there is</p> <p>25 the 75,000 paid-out waiters; correct?</p>
Page 51	Page 53
<p>1 A. They're basically checks written out to</p> <p>2 alcohol companies that we buy alcohol from. That</p> <p>3 would relate to the beer, liquor and sodas and</p> <p>4 that. This is what C.B. wanted to see how much</p> <p>5 beer and liquor and soda were sold, he just wanted</p> <p>6 to have some idea. And we just called it cost of</p> <p>7 sales.</p> <p>8 Q. So above there in revenues, he's finding</p> <p>9 out, that tells C.B. how much he's taking in for</p> <p>10 those categories, and then this list tells him how</p> <p>11 much he paid for them?</p> <p>12 A. That is correct.</p> <p>13 Q. And for 2013 at least, he paid 400 grand</p> <p>14 and some change?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And then we have gross profit line, I</p> <p>17 assume that's the total revenues minus the total</p> <p>18 cost of sales; right?</p> <p>19 A. That is correct.</p> <p>20 Q. The next batch of categories we have are</p> <p>21 called expenses; correct?</p> <p>22 A. Yes.</p> <p>23 Q. And the first one is independent</p> <p>24 contractor, 488,979 and 26 cents; right?</p> <p>25 A. That is correct.</p>	<p>1 A. That is correct.</p> <p>2 Q. So if we added the independent contractor</p> <p>3 number and the paid-out waiters number, it'll equal</p> <p>4 the entertainers and waiters?</p> <p>5 A. Just repeat that, please.</p> <p>6 Q. Sure. If we took -- does this</p> <p>7 entertainers and waiters column up above in the</p> <p>8 revenues, does it include anything other than</p> <p>9 independent contractor and paid-out waiters?</p> <p>10 A. It should not.</p> <p>11 Q. Because when I did the math, I came up</p> <p>12 about 16,000 dollars short. I just assumed that</p> <p>13 was it until I started doing the math and I saw</p> <p>14 that it didn't line up.</p> <p>15 Can you explain that?</p> <p>16 A. Let me take a calculator to that.</p> <p>17 How did you come up to your figure?</p> <p>18 Q. I added independent contractor --</p> <p>19 A. Right.</p> <p>20 Q. -- and paid-out waiters.</p> <p>21 A. Okay. So you took 580?</p> <p>22 Q. No, I didn't. I took the 488,000 down</p> <p>23 below --</p> <p>24 A. Yes.</p> <p>25 Q. -- I added the 75,450.97 --</p>

14 (Pages 50 to 53)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 54	Page 56
<p>1 A. Right.</p> <p>2 Q. -- and I subtracted that from the</p> <p>3 entertainers and waiters number above, the 580, and</p> <p>4 I came up 16,033 dollars and 55 cents short.</p> <p>5 A. Don't forget that this entertainers and</p> <p>6 waiters equals 100 percent of their get, and the</p> <p>7 balance -- the 488 is 90 percent of that figure.</p> <p>8 Q. So the 16,000 dollars that I'm missing</p> <p>9 is --</p> <p>10 A. Yeah.</p> <p>11 Q. -- should be the 10 percent in there?</p> <p>12 A. Yeah. But just don't forget we've got</p> <p>13 timing differences as well at the beginning and at</p> <p>14 the end of the year. And what used to be -- at the</p> <p>15 end of the year there were checks -- the dancers --</p> <p>16 dancers dance until the end of the new year; right?</p> <p>17 Q. Right.</p> <p>18 A. And the checks were written in the</p> <p>19 following year, and sometimes they got the dates</p> <p>20 wrong.</p> <p>21 Q. So it may not line up to the penny?</p> <p>22 A. Exactly.</p> <p>23 Q. Because there's some --</p> <p>24 A. There's a --</p> <p>25 Q. -- events that occur at the year end that</p>	<p>1 A. Repeat that for one second, please.</p> <p>2 Q. Sure. That this 580,000 dollar amount up</p> <p>3 in revenues --</p> <p>4 A. Yes.</p> <p>5 Q. -- should equal the full IOU amounts --</p> <p>6 A. Yes.</p> <p>7 Q. -- plus the cash taken out by bartenders</p> <p>8 and waiters for credit card tips?</p> <p>9 A. That is correct.</p> <p>10 MR. SCHLANGER: Excuse me. I'm going to</p> <p>11 object to the question. It misstates what</p> <p>12 he testified to earlier. You may have used</p> <p>13 the word equals when you meant includes.</p> <p>14 BY MR. LUKAS:</p> <p>15 Q. Entertainers and waiters, the</p> <p>16 580,000 dollars, that includes the full IOU amount</p> <p>17 plus the cash that the bartenders and waiters take</p> <p>18 out for credit card tips?</p> <p>19 A. Yes.</p> <p>20 MR. SCHLANGER: Yeah. And off the</p> <p>21 record for a second.</p> <p>22 MR. LUKAS: Sure.</p> <p>23 (Whereupon, a discussion ensued off</p> <p>24 the record.)</p> <p>25 BY MR. LUKAS:</p>
Page 55	Page 57
<p>1 get paid in the new year?</p> <p>2 A. That is correct.</p> <p>3 Q. But generally speaking it should be very</p> <p>4 close to --</p> <p>5 A. It should be close, yeah.</p> <p>6 Q. And is that amount, that 10 percent that's</p> <p>7 not -- is that somewhere else in this expense line?</p> <p>8 A. It should not be, no.</p> <p>9 Q. Because it's just a straight revenue?</p> <p>10 A. Yeah. Now, what I have found, when I was</p> <p>11 inputting stuff into the system, sometimes I would</p> <p>12 categorize things as contract wages when actually</p> <p>13 it should have been some other event, and I found</p> <p>14 that out later. But just because the bottom line</p> <p>15 does not change, I didn't bother with it.</p> <p>16 Q. I see. So going back to this revenue</p> <p>17 line, the entertainers and waiters should equal the</p> <p>18 full IOU amount --</p> <p>19 A. Yes.</p> <p>20 Q. -- from which the checks were cut, which</p> <p>21 we know is 10 percent less --</p> <p>22 A. Yes.</p> <p>23 Q. -- but it should include the full IOU</p> <p>24 amount plus the credit card tips paid in cash to</p> <p>25 bartenders and waiters?</p>	<p>1 Q. And it may not, if we took those out just</p> <p>2 on a strict calendar year, it may not be exactly to</p> <p>3 the penny because we have this spill-over from the</p> <p>4 previous year that spills over into the next year?</p> <p>5 A. That is correct.</p> <p>6 Q. And that's because they're working on the</p> <p>7 31st, and the checks may not get cut till the 1st?</p> <p>8 A. That's correct.</p> <p>9 Q. Got it. Let's keep going. Advertising</p> <p>10 expense, what's that?</p> <p>11 A. That's basically advertising what the</p> <p>12 company does for promotions -- well, for the</p> <p>13 advertising for the company.</p> <p>14 Q. And where do you get that number from?</p> <p>15 A. From the checks that have been written</p> <p>16 out.</p> <p>17 Q. Bank charges, what's that?</p> <p>18 A. Bank charge is what the bank fees -- the</p> <p>19 bank will charge the company for having bank</p> <p>20 accounts, doing certain services. And those, there</p> <p>21 is as well all the fees that the bank will levy on</p> <p>22 the company.</p> <p>23 Q. And this says 10,489. Is there any kind</p> <p>24 of itemization as to what those charges were?</p> <p>25 A. I can get them, yes.</p>

15 (Pages 54 to 57)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 58	Page 60
<p>1 MR. LUKAS: Will you mark this portion?</p> <p>2 BY MR. LUKAS:</p> <p>3 Q. Included in there, are those the times</p> <p>4 where -- would we find, is that the category we</p> <p>5 would find where the credit card company reversed</p> <p>6 the charges on the V.I.P. room?</p> <p>7 A. It could have it in there as well, yeah.</p> <p>8 It could have it in there as well.</p> <p>9 Q. Where else would it be found?</p> <p>10 A. It could be under credit card processing</p> <p>11 fee as well, or even -- yeah.</p> <p>12 Q. And that's an item we have down a little</p> <p>13 further; right?</p> <p>14 A. Yeah.</p> <p>15 Q. So and I imagine for credit card</p> <p>16 processing fee that we have there, the</p> <p>17 17,000 dollars, you have that itemized as well, you</p> <p>18 could get me that?</p> <p>19 A. Everything is itemized.</p> <p>20 MR. LUKAS: Mark this portion.</p> <p>21 BY MR. LUKAS:</p> <p>22 Q. So either in one of those two categories,</p> <p>23 or maybe in both, we would find these reverse</p> <p>24 charges from credit card companies?</p> <p>25 A. Yeah.</p>	<p>1 A. Commission and fees? Credit card</p> <p>2 processing. I would have to have a look at that.</p> <p>3 I've got it itemized. It could be -- let me have a</p> <p>4 look at that. I can get back to Susan with that</p> <p>5 amount.</p> <p>6 MR. LUKAS: Will you mark this portion?</p> <p>7 BY MR. LUKAS:</p> <p>8 Q. Every once in a while I turn to her and</p> <p>9 say mark this portion so I can go back and remember</p> <p>10 what it was I wanted to ask for.</p> <p>11 A. Fees and credit card.</p> <p>12 Q. Don't mumble or don't talk to yourself,</p> <p>13 because she'll type it down like you're saying it</p> <p>14 out loud. I do the same thing and they always bust</p> <p>15 me. It looks really weird on the transcript.</p> <p>16 But as you sit here, you don't know or</p> <p>17 can't recall what the 22,000 dollars in commissions</p> <p>18 and fees expense is about?</p> <p>19 A. I would have to go and have a look.</p> <p>20 Q. Fair enough. Insurance expense?</p> <p>21 A. Just insurance paid, workman's comp</p> <p>22 insurance, liability policies or whatever.</p> <p>23 Q. Internet expenses?</p> <p>24 A. This could relate to the Internet fee for</p> <p>25 having the Internet or Web design or whatever.</p>
Page 59	Page 61
<p>1 Q. "Yes"?</p> <p>2 A. Yes.</p> <p>3 Q. What other charges -- I mean, of this</p> <p>4 10,000 dollars, what's the primary charge? Like,</p> <p>5 what's the main charge there? What is it? What's</p> <p>6 really running that number?</p> <p>7 A. I would have to have a look and see.</p> <p>8 Q. Can you give me some examples, other than</p> <p>9 reverse credit card charges?</p> <p>10 A. It would be just basically the fees that</p> <p>11 the bank will charge.</p> <p>12 Q. Like for having an account and --</p> <p>13 A. Yeah. I mean, we do request -- well, not</p> <p>14 me. I mean, Karen does request certain information</p> <p>15 and they charge us for that, and they expense us.</p> <p>16 Q. Casual labor, what's that?</p> <p>17 A. Just people doing temporary work for the</p> <p>18 company.</p> <p>19 Q. Paid-out waiters we've discussed?</p> <p>20 A. Yeah.</p> <p>21 Q. Charitable contribution expense, that's</p> <p>22 what?</p> <p>23 A. That's just giving donations to certain</p> <p>24 organizations.</p> <p>25 Q. Commissions and fees expense, what's that?</p>	<p>1 Q. Laundry and cleaning expense?</p> <p>2 A. We've got people coming in to clean the</p> <p>3 club, and they have got people bringing in the</p> <p>4 tablecloths, the plastic mats. That might be part</p> <p>5 of that as well.</p> <p>6 Q. Legal expense?</p> <p>7 A. That's legal expenses. That's</p> <p>8 straightforward. Accounting is straightforward as</p> <p>9 well.</p> <p>10 Q. Legal expense, does that include this</p> <p>11 lawsuit?</p> <p>12 A. At this stage? Not at this stage.</p> <p>13 Q. Accounting expense, that's you?</p> <p>14 A. That's us, yes.</p> <p>15 Q. License expense?</p> <p>16 A. Licenses, we pay license fees for liquor</p> <p>17 license. You've got to have a registered licensee</p> <p>18 for the company and other licenses, corporate</p> <p>19 licenses.</p> <p>20 Q. Music and entertainment expense?</p> <p>21 A. That -- these are expenses paid to a</p> <p>22 corporation for allowing to play music.</p> <p>23 Q. Office expense?</p> <p>24 A. Straight office expenses, Office Depot,</p> <p>25 office supplies.</p>

16 (Pages 58 to 61)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 62	Page 64
<p>1 Q. Payroll tax expense, what's that?</p> <p>2 A. Payroll tax expense are your W-2</p> <p>3 employees, the portion of the tax expense, the</p> <p>4 U.R.F., the -- that's the unemployment, federal,</p> <p>5 state, the FICA taxes.</p> <p>6 Q. And the company -- or the Northside Drive</p> <p>7 does not pay that on the dancers; correct?</p> <p>8 A. That is correct.</p> <p>9 Q. So this does not include the dancers?</p> <p>10 A. That is correct.</p> <p>11 Q. Does it include the general manager, Matt?</p> <p>12 A. If he's on the payroll, yes, it does.</p> <p>13 Q. Do you know whether that Matt's income is</p> <p>14 even recorded, or compensation is even recorded in</p> <p>15 the system anywhere?</p> <p>16 A. I don't do day-to-day operations as such.</p> <p>17 I'm not that -- I don't go that deep into it, so I</p> <p>18 would have to find out.</p> <p>19 MR. SCHLANGER: So the answer is you</p> <p>20 don't know?</p> <p>21 THE WITNESS: I don't know.</p> <p>22 BY MR. LUKAS:</p> <p>23 Q. So who's responsible for payroll?</p> <p>24 A. Now, Karen will call in the payroll with</p> <p>25 A.D.P. (sic), and she will request X amount of</p>	<p>1 Q. I noticed in 2012 that 1,000 dollar figure</p> <p>2 was 15,000 for printing. Do you know why that was</p> <p>3 for printing?</p> <p>4 A. Sometimes they do a lot of printing. I</p> <p>5 mean, it's fliers and promotion stuff in that.</p> <p>6 Q. Promotional, 500 dollars, do you see that?</p> <p>7 A. Yeah.</p> <p>8 Q. What's that?</p> <p>9 A. Sometimes they would get people to come in</p> <p>10 and do promotional stuff for Richards, for Swinging</p> <p>11 Richards, and that would go under there.</p> <p>12 Q. How is that different from advertising?</p> <p>13 How do you know to put 500 in that category instead</p> <p>14 of, say, putting it up in advertising?</p> <p>15 A. I should have put it under advertising,</p> <p>16 but I just said, you know, maybe it should go under</p> <p>17 here. But effectively it should go under</p> <p>18 advertising.</p> <p>19 Q. Other taxes, that's property tax; right?</p> <p>20 A. That's the property taxes, yeah.</p> <p>21 Q. And that's all it is property tax;</p> <p>22 right?</p> <p>23 A. That is correct.</p> <p>24 Q. And then parking, what's that?</p> <p>25 A. Parking is the fee that Swinging Richards</p>
Page 63	Page 65
<p>1 hours for the waiters and the bartenders.</p> <p>2 Q. So --</p> <p>3 A. And she'll give the tip amounts as well.</p> <p>4 Q. So you don't know whether Matt, for</p> <p>5 example, is a W-2 or a 1099 employee?</p> <p>6 A. I would have to go back and look. I don't</p> <p>7 know.</p> <p>8 MR. LUKAS: Can you mark this portion?</p> <p>9 BY MR. LUKAS:</p> <p>10 Q. Payroll processing fee, what's that?</p> <p>11 A. That's the processing fee that A.D.P.</p> <p>12 would charge the company.</p> <p>13 Q. When I looked in 2012's income</p> <p>14 statement --</p> <p>15 A. Yeah.</p> <p>16 Q. -- there wasn't that charge. Do you know</p> <p>17 why?</p> <p>18 A. It could have been charged under</p> <p>19 commission and fees. It could be there.</p> <p>20 Q. It could be there, just in a different</p> <p>21 category?</p> <p>22 A. Exactly. Yeah.</p> <p>23 Q. Printing?</p> <p>24 A. Is when they have brochures, when they --</p> <p>25 also certain fliers go under there.</p>	<p>1 has to pay for using the facility to park on -- to</p> <p>2 park next to the club.</p> <p>3 Q. Pest control, I think I understand that</p> <p>4 one.</p> <p>5 A. Yeah.</p> <p>6 Q. And who does Richards use for pest</p> <p>7 control?</p> <p>8 A. Who do they use for pest control?</p> <p>9 Q. Well, let me ask you this, do the</p> <p>10 employees do it?</p> <p>11 A. No. A company.</p> <p>12 Q. So some outside vendor comes in and does</p> <p>13 it; is that correct?</p> <p>14 A. I think it's Paces Pest Control.</p> <p>15 Q. What is it?</p> <p>16 A. Paces Pest Control, I think it is.</p> <p>17 Q. Is that a routine payment or is that just</p> <p>18 as needed?</p> <p>19 A. I think they call it in.</p> <p>20 Q. Call it in as they need it?</p> <p>21 A. That is correct. Again, I'm not too sure.</p> <p>22 Q. And again, that's a third-party vendor,</p> <p>23 not a --</p> <p>24 A. These are --</p> <p>25 MR. SCHLANGER: I take it that</p>

17 (Pages 62 to 65)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

<p style="text-align: right;">Page 66</p> <p>1 cockroaches are inherently intertwined with 2 dancer compensation somehow? 3 MR. LUKAS: I'm trying to figure out how 4 he accounts for the money. 5 MR. SCHLANGER: Oh, come on. 6 MS. MURPHEY: He told you pest control. 7 I think that's responsive. I'm not sure 8 that any of this is particularly relevant. 9 BY MR. LUKAS: 10 Q. Equipment rental, what's that? 11 A. Rental of the equipment, whether it's for 12 the credit card machine or other equipment that 13 they need to rent. 14 Q. Repairs and maintenance expense, how is 15 that different from laundry and cleaning expense? 16 A. Clubs need a lot of repairs done. There's 17 a lot of leakage for roofs and that, and that needs 18 to be repaired. 19 Q. And those are third-party vendors that are 20 used? 21 A. These are third-party vendors. 22 Q. And are they paid 1099s or are they just 23 paid by invoice? 24 A. They're paid by invoice. Yeah, they're 25 paid by invoice.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. That is correct. 2 Q. If you look at the next page -- 3 MS. MURPHEY: Would now be a good time 4 to take a break? 5 MR. LUKAS: Yes. It's a great time. 6 (Whereupon, a discussion ensued off 7 the record.) 8 (Whereupon, there was a brief 9 recess.) 10 BY MR. LUKAS: 11 Q. Mr. Haralambus, back on the record. The 12 next page is an extension for filing a tax return. 13 So I take it 1400 Northside Drive hasn't filed 14 their 2013 tax? 15 A. That is correct. 16 Q. And why is that? 17 A. I need to go back and -- 18 MR. SCHLANGER: I'm going to object to 19 that question as privileged. It has nothing 20 to do with how he accounts for his money. 21 MR. LUKAS: Well, it might if the reason 22 is because he wants to change the way the 23 accounting practices are to make legal 24 arguments in this lawsuit. 25 MR. SCHLANGER: No.</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. Supplies expense, what's that? 2 A. That relates closely to the repairs and 3 maintenance going to Home Depot and expensing it. 4 Q. What's security expense? 5 A. Security is they have security guards. 6 Q. Telephone and cable? 7 A. The phone, cable, yeah. 8 Q. Salaries and wages expense, what's that? 9 A. The W-2 expenses. 10 Q. Do you know which employees that includes? 11 Is that bartenders and waiters? 12 A. As far as I understand, it is them. 13 Q. The door people as well? 14 A. I don't know. I don't know. 15 Q. And you don't know about the managers or 16 assistant manager? 17 A. I don't know. 18 Q. And then utilities expense, just for 19 utilities? 20 A. Straightforward. 21 Q. And then you come up with a total expense 22 line of 1.257 and some change; right? 23 A. That is correct. 24 Q. And you subtract that from the gross 25 profit amount and you come up with net income?</p>	<p style="text-align: right;">Page 69</p> <p>1 THE WITNESS: No. 2 MR. SCHLANGER: How he accounted for the 3 money is how he accounted for the money. 4 Why they have chosen to ask for an extension 5 is not relevant to anything that -- of this 6 issue. 7 MR. LUKAS: So you're asserting the 8 privilege on that question? 9 MR. SCHLANGER: Yes. 10 MR. LUKAS: Fair enough. 11 BY MR. LUKAS: 12 Q. Let's go to the next page. The next page 13 is an income statement very similar to the one we 14 just went through, but this one's for the 12 months 15 ending December 31st, 2012; correct? 16 A. That is correct. 17 Q. I'm just going to ask you about a few 18 things that I spotted that were different. We're 19 not going to march through this again. There's an 20 other income line item in the revenues in this one. 21 Could you tell me what that is for? 22 A. That is the sales tax. When you pay your 23 sales tax on time, the City will give you a break, 24 and that's the other income. 25 Q. I also saw this accident expense and auto</p>

18 (Pages 66 to 69)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 70	Page 72
<p>1 expense in this statement that wasn't in the</p> <p>2 previous one. Do you know what those are?</p> <p>3 A. Auto expenses would relate to -- okay.</p> <p>4 The accident, where do you see accident?</p> <p>5 Q. In the expense column, four down.</p> <p>6 A. I believe one of the patrons when screens</p> <p>7 got smashed, and the company paid for that.</p> <p>8 Q. I see. How about auto expense?</p> <p>9 A. Auto expense, if -- this relates to '12,</p> <p>10 would be company auto expenses for going to certain</p> <p>11 places and that.</p> <p>12 Q. Well, it looks like maybe there was some</p> <p>13 kind of a trip or something, because there's meal</p> <p>14 expense and travel expense?</p> <p>15 A. This would be related -- that's why I'm</p> <p>16 saying -- they've got a club in Florida, and they</p> <p>17 were looking to open up there. And that would be</p> <p>18 the expenses for that.</p> <p>19 Q. I see. Do you do the books for the</p> <p>20 Florida club?</p> <p>21 A. No, I do not.</p> <p>22 Q. Let's see what else is different. There's</p> <p>23 a depreciation line, a depreciation expense line</p> <p>24 item in 2012 that wasn't in 2013. What's that?</p> <p>25 A. I have not finalized the tax return for</p>	<p>1 A. That is correct.</p> <p>2 Q. And in the gross receipts column, you have</p> <p>3 2,117,118 dollars; is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. And how do you arrive at that number?</p> <p>6 A. Let me have a look at this. If you take</p> <p>7 2,196,678 --</p> <p>8 Q. That's the total revenues column from the</p> <p>9 income statement?</p> <p>10 A. If you go to the income statement, SR</p> <p>11 2096 --</p> <p>12 Q. Yep.</p> <p>13 A. -- you've got entertainment and waiters of</p> <p>14 479,000 -- sorry, you can go to your total revenue</p> <p>15 of 2,196 --</p> <p>16 Q. Got it.</p> <p>17 A. -- similar, and you subtracted paid-out</p> <p>18 waiters of 79,560.</p> <p>19 Q. And that's where you get the gross</p> <p>20 receipts?</p> <p>21 A. That is correct.</p> <p>22 Q. And you don't do the same with the</p> <p>23 independent contractors; right?</p> <p>24 A. That is correct.</p> <p>25 Q. And that's because they're 1099 employees,</p>
Page 71	Page 73
<p>1 2013. Once that's done, I will actually add it in.</p> <p>2 Q. And then dues and subscription expense,</p> <p>3 that wasn't in 2013. What's that?</p> <p>4 A. Dues and -- I would have to -- that would</p> <p>5 be maybe subscriptions to something or books or</p> <p>6 something like that.</p> <p>7 Q. There's an interest expense on this that</p> <p>8 wasn't on the other one. Is that because the other</p> <p>9 one's taxes aren't done, the taxes weren't done in</p> <p>10 2013?</p> <p>11 A. That is correct.</p> <p>12 Q. So once the taxes are done, we'll see that</p> <p>13 line item on the income statement for 2013?</p> <p>14 A. It should be, yeah.</p> <p>15 Q. This one has a 1,000 dollar other expense.</p> <p>16 Do you know what that one is?</p> <p>17 A. I think that was an expense that I did not</p> <p>18 know. The check wasn't clear, and I don't know</p> <p>19 what it was.</p> <p>20 Q. And again, you do the math the same way,</p> <p>21 total expenses and net income?</p> <p>22 A. That is correct.</p> <p>23 Q. Let's go to the next page. And this is</p> <p>24 the first page of the tax return for 1400 Northside</p> <p>25 Drive for 2012; correct?</p>	<p>1 and you treat them as a deduction; correct?</p> <p>2 A. That is correct.</p> <p>3 Q. Whereas the paid-out waiters, those are</p> <p>4 W-2 employees?</p> <p>5 A. That is correct.</p> <p>6 Q. And if we look on the next page, that's</p> <p>7 where we see the independent contractors, the</p> <p>8 380,000 dollars, that's where we see that captured</p> <p>9 and backed out; correct?</p> <p>10 A. That is correct.</p> <p>11 Q. So between that line item and the expenses</p> <p>12 and not including the paid-out waiters in the gross</p> <p>13 receipts, we get to that entertainers and waiters</p> <p>14 number?</p> <p>15 A. Yes.</p> <p>16 MS. MURPHEY: I'm going to object to the</p> <p>17 form of the question. It was confusing.</p> <p>18 BY MR. LUKAS:</p> <p>19 Q. Plus the 10 percent.</p> <p>20 A. Why don't you just go through the process</p> <p>21 again --</p> <p>22 Q. Sure.</p> <p>23 A. -- in that statement.</p> <p>24 Q. Sure. We captured -- I'm trying to --</p> <p>25 when you look at the revenue columns where it says</p>

19 (Pages 70 to 73)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 74	Page 76
<p>1 entertainers and waiters for the 479,000 --</p> <p>2 A. Yes.</p> <p>3 Q. -- the 380,000 or so of that is for the</p> <p>4 dancers' portion of the credit card V.I.P. room;</p> <p>5 correct?</p> <p>6 A. That is correct.</p> <p>7 Q. And 79,000 and some change is -- captures</p> <p>8 the credit card tips paid out in cash to waiters</p> <p>9 and bartenders?</p> <p>10 A. That is correct.</p> <p>11 Q. And the paid-out to waiters is captured on</p> <p>12 the tax form because it's backed out of the gross</p> <p>13 receipts, it's not included; correct?</p> <p>14 A. That's what I've done.</p> <p>15 Q. And the independent contractors, 380,000</p> <p>16 is captured as an additional expense that's</p> <p>17 deducted; correct?</p> <p>18 A. That is recorded as an expense.</p> <p>19 Q. Yes. On the tax form?</p> <p>20 A. That is correct.</p> <p>21 Q. And the paid out -- or the waiters and</p> <p>22 bartenders are W-2 employees, and the independent</p> <p>23 contractors are treated with a 1099; correct?</p> <p>24 A. That is correct.</p> <p>25 Q. And the 1099 is issued only for that</p>	<p>1 way, it's so that you can explain to the I.R.S. --</p> <p>2 why do you do it this way? Try me again.</p> <p>3 A. The I.R.S. will ask me for the 1099 for</p> <p>4 that amount.</p> <p>5 Q. For the 79,000; right?</p> <p>6 A. Yeah.</p> <p>7 Q. And you can't show it?</p> <p>8 A. Yeah. Exactly. Because they're W-2</p> <p>9 workers. Yeah, because the salaries and wages has</p> <p>10 an item in it for tips as well. And A.D.P. will</p> <p>11 back it out.</p> <p>12 Q. I see.</p> <p>13 A. Will include their tips in the payroll.</p> <p>14 Q. But with respect to the 380,000, you have</p> <p>15 that captured with 1099s, so you don't have to</p> <p>16 worry about that, you can treat that the way you</p> <p>17 treat it?</p> <p>18 A. That is correct.</p> <p>19 Q. I get it.</p> <p>20 Let's go to the next page, SR 2099.</p> <p>21 A. Yeah.</p> <p>22 Q. Again, this is an income statement from</p> <p>23 2011, and it appears to be pretty much the same as</p> <p>24 the one from 2012 and 2013; correct?</p> <p>25 A. That is correct.</p>
Page 75	Page 77
<p>1 amount, for the credit card payments to the V.I.P.</p> <p>2 rooms; correct?</p> <p>3 A. The 1099 is issued for that purpose.</p> <p>4 Q. And not for any of the cash they receive</p> <p>5 as compensation for their dancing?</p> <p>6 A. It is not recorded.</p> <p>7 Q. Why did you do it that way?</p> <p>8 A. Excuse me? Why did I --</p> <p>9 Q. Why did you do it this way? Why didn't</p> <p>10 you just back out the 380,000 just like you backed</p> <p>11 out the 79,000 when you're doing the gross</p> <p>12 receipts?</p> <p>13 A. Because when the I.R.S. looks at this,</p> <p>14 they're going to say you've got salaries and wages</p> <p>15 and you've got 79,000. So they will be asking me</p> <p>16 for a 1099 for that as well and there won't be one.</p> <p>17 Q. I see. Because it's paid in -- like we</p> <p>18 talked about earlier, because it's paid in cash,</p> <p>19 there's no audit trail and you couldn't approve to</p> <p>20 the I.R.S. where that money went?</p> <p>21 A. I can prove to the extent where they've</p> <p>22 taken it out, that amount. To exactly who it went,</p> <p>23 the bookkeeper would have a tough time trying to</p> <p>24 find it, yeah.</p> <p>25 Q. Well, going back to why you do it this</p>	<p>1 Q. You're doing the -- you're accounting the</p> <p>2 same way in 2011 as you did in 2012 and 2013?</p> <p>3 A. That is correct.</p> <p>4 Q. Same method as we go forward to the next</p> <p>5 page, 2100, you're paying the taxes in the same</p> <p>6 manner using the same method?</p> <p>7 A. That is correct.</p> <p>8 Q. The next page is an income statement from</p> <p>9 December 2010.</p> <p>10 A. Yes.</p> <p>11 Q. Again, still doing your accounting the</p> <p>12 same way in that year; correct?</p> <p>13 A. That is correct. I'm trying to be</p> <p>14 consistent, yes.</p> <p>15 Q. Right. There's a couple of things I</p> <p>16 wanted to ask you about on this December 31, 2010</p> <p>17 income statement that's SR 2101. There's a rent</p> <p>18 column here that didn't appear in any of the</p> <p>19 previous years in the expenses for 140,000.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. What's that?</p> <p>23 A. C.B. Jones owns the building.</p> <p>24 Q. Now he owns the building?</p> <p>25 A. No, no. He always owned the building and</p>

20 (Pages 74 to 77)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 78	Page 80
<p>1 the company paid rent. 2 Q. But as of 2011, the company doesn't pay 3 rent? 4 A. No. 5 Q. Do you know why? 6 A. I think they were struggling a bit with 7 cash flow here and there. So I don't know, but he 8 did not -- he opted not to take rent. 9 Q. So 2011, 2012, 2013 were rent-free years? 10 A. '11 was rent-free. '12 was rent-free. 11 And I presume '13 would be the same. '13 was 12 5,000. He took 5,000. 13 Q. So there was a rent column in '13? 14 A. Yeah. 15 Q. Sorry. I missed that. Okay. 16 Another question I had for you on this 17 2010 one is, the salary and wage expense is 18 considerably larger in 2010 than it was in the 19 previous years. The previous years we were in the 20 175 to 200 thousand dollar range. Here it's almost 21 400,000. 22 Do you know why there's a difference 23 there? 24 A. It looks to me that C.B. Jones took a 25 salary as well.</p>	<p>1 Q. -- that amount is actually 33,000 more 2 than the entertainers and waiters. 3 A. And your question is? 4 Q. Well, before when we talked about what 5 entertainers and waiters included, we said it was 6 the independent contractor amount, the paid-out 7 waiters amount, plus the 10 percent captured by the 8 club on the IOU for the service -- or the 9 processing fee. 10 But when I add the independent contractor, 11 297,000, the paid-out waiter, 63,000 -- 12 A. 297 plus -- 13 Q. 63. 14 A. -- 63 comes to 360. 15 Q. Yes. Entertainers and waiters revenue 16 only is 327,000. 17 A. I would have to look into that. 18 MS. MURPHEY: I'm going to object to the 19 form of the question to the extent it 20 mischaracterizes prior testimony, because he 21 discussed the year-end variations. 22 MR. LUKAS: Sure. 23 MS. MURPHEY: And this could just be the 24 variation the other way. 25 MR. SCHLANGER: Off the record for a</p>
Page 79	Page 81
<p>1 Q. And in the 2011, 2012 and 2013, he did 2 not? 3 A. No. 4 Q. In fact, I think if we look at the next 5 page, the tax return for 2010, it has compensation 6 of officers for 197,000. Do you see that? 7 A. Yes. 8 Q. And that would be for C.B.'s payment, or 9 payment to C.B.? 10 A. Yeah. 11 Q. Going back one page, back to 2102, the 12 income statement for the months ending December -- 13 12 months ending December 31, 2010, I see you still 14 have your calculator out, or phone, so I'd like 15 to -- you to check my math. Here I came up with 16 something confusing. 17 When I take the entertainers and waiters, 18 327,000 and some change -- 19 A. Yeah. 20 Q. -- and I subtract the independent 21 contractor expense from below -- 22 A. Uh-huh. 23 Q. -- and I subtract the paid-out waiters 24 from below -- 25 A. Right.</p>	<p>1 second. 2 MR. LUKAS: Sure. 3 (Whereupon, a discussion ensued off 4 the record.) 5 BY MR. LUKAS: 6 Q. The part that's confusing me isn't the 7 dollar amount difference. The part that's 8 confusing me is that the independent contractor and 9 paid-out waiter expenses is higher than what was 10 taken in. 11 And that could be a year-end -- 12 A. I would -- 13 Q. -- scenario of 33,000 dollars? 14 A. I would have to go in and just have a look 15 exactly what that is. 16 MR. LUKAS: Will you mark this portion? 17 MS. MURPHEY: I'm going to object also. 18 You didn't ask for -- 19 MR. LUKAS: Yes. I'll -- 20 MS. MURPHEY: -- 2007 tax returns. 21 That's irrelevant because it's not the 22 opt-in period. That only goes back to 23 November of 2011. So I'm going to assert 24 that we inadvertently disclosed these and 25 this wasn't part of the request.</p>

21 (Pages 78 to 81)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS 9/18/2014

Page 82	Page 84
<p>1 MR. LUKAS: Well, I get that. But I</p> <p>2 think I'm entitled to understand how he does</p> <p>3 the math. And this is contrary to how he</p> <p>4 explained it and how I understood it.</p> <p>5 So I do believe, because we've gone down</p> <p>6 this road and he explained how he did the</p> <p>7 math, I don't know that there would ever be</p> <p>8 a scenario in which it should be over.</p> <p>9 MS. MURPHEY: If there was more money</p> <p>10 paid out for the prior year's money, it</p> <p>11 would make it a bigger amount than what was</p> <p>12 taken in. So it can go either way how he</p> <p>13 described it.</p> <p>14 They can either --</p> <p>15 MR. SCHLANGER: More or less.</p> <p>16 MS. MURPHEY: More or less. So.</p> <p>17 MR. LUKAS: But 33,000 bucks for one</p> <p>18 night?</p> <p>19 MS. MURPHEY: New Year's Eve, depending</p> <p>20 where that money comes in, if it's one year</p> <p>21 or the next.</p> <p>22 MR. SCHLANGER: Anyway, what the --</p> <p>23 MS. MURPHEY: It is what it is.</p> <p>24 MR. SCHLANGER: Yeah.</p> <p>25 MS. MURPHEY: But again, I'm not sure</p>	<p>1 Q. And in your system is there any effort to</p> <p>2 track or any ability to track what the dancers paid</p> <p>3 in tip-outs to the front door person or the V.I.P.</p> <p>4 person?</p> <p>5 A. I don't get involved with day-to-day</p> <p>6 operations. I don't know.</p> <p>7 Q. All I want to know is if your system of</p> <p>8 accounting and bookkeeping that you set up includes</p> <p>9 a way to capture those amounts.</p> <p>10 A. No, it does not.</p> <p>11 Q. Does 1400 Northside Drive utilize a tip</p> <p>12 credit or seek a tip credit in connection with the</p> <p>13 payment of its hourly employees?</p> <p>14 A. I don't understand your question.</p> <p>15 Q. Sure. Does the company try to take credit</p> <p>16 for tips paid to the waiters and bartenders to</p> <p>17 reduce the hourly minimum wage they pay those</p> <p>18 employees?</p> <p>19 A. I don't account for anything of that, and</p> <p>20 I don't know that answer.</p> <p>21 Q. It's certainly not, that sort of</p> <p>22 arrangement isn't captured anywhere in your</p> <p>23 bookkeeping or accounting system?</p> <p>24 A. No.</p> <p>25 Q. How often are you involved in working on</p>
Page 83	Page 85
<p>1 it's relevant at all, because it, again, was</p> <p>2 inadvertently produced.</p> <p>3 MR. LUKAS: Well, I'm going to ask for</p> <p>4 that explanation. And I mean, obviously you</p> <p>5 can object and we can discuss it if we have</p> <p>6 to.</p> <p>7 But I think I asked you to mark it, so</p> <p>8 thank you, Debra.</p> <p>9 BY MR. LUKAS:</p> <p>10 Q. The next page is the tax return for 2010.</p> <p>11 And again, that was accomplished using the same</p> <p>12 methodology you described for me previously.</p> <p>13 A. That is correct.</p> <p>14 Q. What role, if any, do you have in the</p> <p>15 payroll of paying the employees?</p> <p>16 A. Nothing.</p> <p>17 Q. And do you know whether there's any effort</p> <p>18 to track the money paid to the general manager</p> <p>19 slash D.J.s?</p> <p>20 A. No. Nothing about that.</p> <p>21 Q. Do you know if there's any effort -- at</p> <p>22 least in your system there isn't any way --</p> <p>23 A. No.</p> <p>24 Q. -- to track that?</p> <p>25 A. No.</p>	<p>1 1400 Northside Drive business as a C.P.A.?</p> <p>2 A. C.B. has had health issues for a while,</p> <p>3 and he's asked me to go there every day to check up</p> <p>4 on things. And I expressed to him I cannot do</p> <p>5 that.</p> <p>6 I said to him, the least I can do for you</p> <p>7 is just call and see how things are going, and</p> <p>8 that's what I do. I do him actually a favor by</p> <p>9 doing that. I'm not -- I don't get paid for that</p> <p>10 or whatever. I just do it just to make sure</p> <p>11 everything is okay.</p> <p>12 Q. And so that's a daily call that you make?</p> <p>13 And who do you make that call to?</p> <p>14 A. To Karen, yeah.</p> <p>15 Q. And how often do you actually go into the</p> <p>16 club?</p> <p>17 A. Into the office?</p> <p>18 Q. Yes. Into the club, go into the club.</p> <p>19 A. I don't have any -- I've gone in the</p> <p>20 daytime, in the morning to pick up the paperwork if</p> <p>21 I have to, and that's it.</p> <p>22 Q. And how often do you pick up paperwork?</p> <p>23 A. Maybe once or twice a week.</p> <p>24 Q. And when you say "pick up paperwork," what</p> <p>25 do you pick up?</p>

22 (Pages 82 to 85)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 86	Page 88
<p>1 A. Bank statements, letters from the I.R.S., 2 that type of stuff. 3 Q. Do you pick up the information that is 4 captured in these spreadsheets that we were looking 5 at? 6 A. I would back it up. 7 Q. You say "back it up," what do you mean 8 back it up? 9 A. Back it up on a disk. 10 Q. So when you come in, you back that 11 information up, but it's maintained at the club? 12 A. That is correct. 13 Q. And do you do that when you go in there 14 once or twice a week, do you do that every time or 15 do you just do it every week or -- 16 A. I'll do it once or twice a month. 17 Q. And when you go in, other than back up 18 that information, what else do you -- that's where 19 you collect stuff, anything from the I.R.S. or 20 anything else that would pertain to you as a 21 C.P.A.? 22 A. Yes. 23 Q. Do you have any other role other than as a 24 C.P.A. and making -- and checking in every day like 25 you described for us?</p>	<p>1 check up and just see if everything is okay. 2 Q. And you just do it as a favor to him? 3 A. That is correct. 4 Q. Do you actually see the IOUs or you just 5 see what's captured on the spreadsheet? 6 A. I see the IOUs. Because they're attached 7 to the check stub. I don't necessarily open them 8 up. They are attached to the check stub. 9 Q. And that's part of what you pick up and 10 gather when you make your visits? 11 A. That is correct. 12 Q. And if we took a paycheck stub and we took 13 an IOU and compared them, the paycheck stub should 14 be for the amount on the IOU less 10 percent? 15 MR. SCHLANGER: I object to the 16 characterization as a paycheck. 17 MR. LUKAS: Paycheck stub, I said. It's 18 a check stub. Oh, I see. I'm sorry. I 19 meant check. You're right. I meant check 20 stub. 21 BY MR. LUKAS: 22 Q. That's why you looked at me like that. 23 A. Yes. 24 Q. So if we took the check stub and compared 25 it to the IOU, the check stub should reflect an</p>
Page 87	Page 89
<p>1 A. The only time that I would be involved in 2 it, if Karen has a vacation, I would fill in her 3 shoes just accounting for the information. But I 4 don't take care of the day-to-day operations. I 5 don't get involved in that. 6 Q. So -- 7 A. She'll make sure that the payroll gets 8 done. I don't get involved with any of that. I'll 9 just help out and just capture that information and 10 that's it. 11 Q. When you say "capture the information," do 12 you mean physically going into the club and opening 13 the safe and all of that? 14 A. That is correct. 15 Q. How often in a year do you do that? 16 A. I may do that about 20 days a year. 17 Q. That's unusual, isn't it, for a C.P.A., or 18 at least for your practice? Do you do that for any 19 other clients? 20 A. No. I don't do it for anyone else. 21 Q. Same with the calling in every day and 22 checking in, that's not something you do? 23 A. Not something I -- C.B., I've known C.B. 24 for a long time. And I don't like to do these 25 things, but he's asked me to just call up and just</p>	<p>1 amount 10 percent less than what's on the IOU? 2 A. Yes. 3 Q. Thanks. 4 Did you have any role in the drafting or 5 signing of the rules and regulations at the club? 6 A. No. 7 Q. How about in connection with the 8 independent contractor agreements? 9 A. No. 10 Q. How about the covenant not to compete? 11 A. No. 12 Q. Did you have any role in the establishing 13 of rules or basically procedure for, say, the front 14 door people and the V.I.P. people and the 15 bartenders and how they should handle their drawers 16 or their bags? 17 A. None. 18 Q. Did you have any role in tracking the 19 total hours worked by dancers? 20 A. None. 21 Q. And in your system is there anywhere where 22 that's tracked or gathered, the hours worked? 23 A. None. 24 Q. Are you aware of anything that Swinging 25 Richards does to track those hours intentionally?</p>

23 (Pages 86 to 89)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 90	Page 92
<p>1 A. I don't know.</p> <p>2 MR. LUKAS: I have no further questions</p> <p>3 for him.</p> <p>4 MS. MURPHEY: I have a couple of</p> <p>5 questions for him, but I just want to step</p> <p>6 out and talk to Herb one second before we</p> <p>7 ask him a few questions.</p> <p>8 (Whereupon, a discussion ensued off</p> <p>9 the record.)</p> <p>10 (Whereupon, there was a brief</p> <p>11 recess.)</p> <p>12 EXAMINATION</p> <p>13 BY MS. MURPHEY:</p> <p>14 Q. I just have a couple of questions. One is</p> <p>15 to clarify something that was said two different</p> <p>16 ways earlier, and I just want to make sure it's</p> <p>17 clear which way it is.</p> <p>18 Jimmy, if you'll go ahead for purposes of</p> <p>19 our discussion and turn back to the SR 2105 sheet,</p> <p>20 which is the monthly summary for November of 2011?</p> <p>21 MR. LUKAS: First of all, I'm going to</p> <p>22 object to the form of the question</p> <p>23 suggesting that it was said two different</p> <p>24 ways. We'll figure out what she's asking</p> <p>25 and whether it was said two different ways.</p>	<p>1 10 percent charge.</p> <p>2 Q. On the hundred dollars?</p> <p>3 A. On the hundred dollar, yes.</p> <p>4 Q. So that's -- and so like there, we have</p> <p>5 28,135, and then the service charge looks like it's</p> <p>6 approximately 10 percent of that 28,000 dollar</p> <p>7 figure for 2,800 dollars?</p> <p>8 A. Yes.</p> <p>9 Q. So on the income statement, if you go back</p> <p>10 to 2094, where the service charge is indicated on</p> <p>11 the revenues line for 52,227.25, that's the</p> <p>12 10 percent on the dancer's hundred dollars that is</p> <p>13 charged to the patron?</p> <p>14 A. That is correct.</p> <p>15 Q. So it's not a 10 percent on the room, it's</p> <p>16 a 10 percent on the dancer?</p> <p>17 A. No, no, no, no. It is a 10 percent on the</p> <p>18 room. Or not.</p> <p>19 MR. LUKAS: Room and the dancer.</p> <p>20 MR. SCHLANGER: No.</p> <p>21 BY MS. MURPHEY:</p> <p>22 Q. You just testified that it was 10 percent</p> <p>23 on the hundred dollar fee paid for the dancer.</p> <p>24 A. Yes. Yes.</p> <p>25 Q. And so that represents the 10 percent of</p>
Page 91	Page 93
<p>1 I think the record will speak for itself.</p> <p>2 But go ahead.</p> <p>3 BY MS. MURPHEY:</p> <p>4 Q. So we talked about V.I.P. cash and V.I.P.</p> <p>5 credit.</p> <p>6 A. Yes.</p> <p>7 Q. And those numbers represented the room</p> <p>8 rental fee paid by a patron to the club; correct?</p> <p>9 A. That is correct.</p> <p>10 Q. And is that the 40 dollar figure or the 65</p> <p>11 dollar figure depending on how long they're in a</p> <p>12 room?</p> <p>13 A. I don't get involved in setting that fee,</p> <p>14 so I don't know.</p> <p>15 Q. But it's your understanding it's a room --</p> <p>16 a charge paid by the patron to the club?</p> <p>17 A. That is correct.</p> <p>18 Q. And then the entertainer expense that you</p> <p>19 indicated was the, and you I think used the word,</p> <p>20 the term hundred dollars payment for the dancer's</p> <p>21 time in the room?</p> <p>22 A. That is correct.</p> <p>23 Q. And then the service charge number</p> <p>24 underneath that represented the 10 percent charge?</p> <p>25 A. Represented what the patron pays the</p>	<p>1 the hundred dollars, not 10 percent --</p> <p>2 A. I stand corrected. You're absolutely</p> <p>3 right. I do apologize. I do apologize. Yes.</p> <p>4 Q. You said it --</p> <p>5 MR. LUKAS: While we're on this, so</p> <p>6 let's make sure that we're clear. Because</p> <p>7 all I want to do is understand it.</p> <p>8 So the 10 percent -- and maybe the best</p> <p>9 way is to call them processing charge to the</p> <p>10 entertainer versus service charge to the</p> <p>11 customer.</p> <p>12 MR. SCHLANGER: There's no -- well --</p> <p>13 MR. LUKAS: Or whatever charge,</p> <p>14 surcharge or --</p> <p>15 MR. SCHLANGER: There's no surcharge on</p> <p>16 the room rental. There's a surcharge on</p> <p>17 the --</p> <p>18 THE WITNESS: Can I just give an</p> <p>19 example?</p> <p>20 FURTHER EXAMINATION</p> <p>21 BY MR. LUKAS:</p> <p>22 Q. Yes. Why don't you give an example.</p> <p>23 MS. MURPHEY: And I just want to make</p> <p>24 sure that you understand it.</p> <p>25 MR. LUKAS: Yes. No, I get it. Yes.</p>

24 (Pages 90 to 93)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

Page 94	Page 96
<p>1 THE WITNESS: Let's say that the room 2 costs 65, let's just use an example, and the 3 entertainer gets paid 220. Right? 4 BY MR. LUKAS: 5 Q. Okay. 6 A. The service fee, the service charge will 7 be 22, not on the room, but on the entertainer. 8 Q. Okay. 9 A. I'm sorry. 10 Q. And then the entertainer will have an IOU 11 for 220? 12 A. Less 10 percent. 13 Q. Well, no, the IOU will be 220? 14 A. That is correct. 15 Q. And then the check will be cut for 220 16 less 10 percent? 17 A. That is correct. 18 MR. LUKAS: Right? We're good? 19 MR. SCHLANGER: Right. 20 BY MR. LUKAS: 21 Q. And that's the way it goes? 22 A. That's the way it goes. 23 MR. SCHLANGER: It was -- 24 MR. LUKAS: So the confusion was he was 25 putting the --</p>	<p>1 Q. And then I have a few other questions. 2 There was one other clean-up question. And I think 3 it was when you were talking about -- you were 4 talking about revenue items, and you said that it 5 was -- I think the -- let's see where you were 6 talking about it. 7 You were talking about the revenue for 8 entertainers and waiters, and then you talked about 9 the paid-out to waiters -- no. Sorry. It's the 10 wrong form. Sorry. Let's go back to the 2105. 11 A question was asked by Mr. Lukas about 12 revenue items, and I think it was that the waiters 13 and -- entertainers and waiters number included 14 from this sheet the tip number and the entertainer 15 number, and at one point you said it was the 16 entertainer number and the paid-out tips. 17 But a paid-out tip is an expense item, not 18 a revenue item; correct? 19 A. The paid-out tip is an expense. 20 Q. So it's really the entertainer number and 21 the tip number represent that entertainer and 22 waiters line on your income statement? 23 A. That is correct. 24 MS. MURPHEY: He just said the debit 25 instead of the credit earlier, so I just</p>
Page 95	Page 97
<p>1 MS. MURPHEY: At one point he said it 2 the right way. But then you asked is it 3 10 percent on the room, and he said yes. 4 THE WITNESS: I'm sorry. 5 MS. MURPHEY: And it's not the room 6 charge, it's the entertainer charge. 7 BY MR. LUKAS: 8 Q. And it's not the two of them combined that 9 they're charging 10 percent? 10 A. No. 11 MS. MURPHEY: They don't charge the 12 percentage on the room charge. 13 MR. LUKAS: Got it. 14 MS. MURPHEY: And again, I'm just trying 15 to make sure you understand what the records 16 are. 17 THE WITNESS: I'm sorry. 18 MR. LUKAS: That's fine. 19 MS. MURPHEY: Because he did say it one 20 way correctly. And then when you asked it, 21 he said it another way. So I just want to 22 make sure you understand what those numbers 23 represent. 24 FURTHER EXAMINATION 25 BY MS. MURPHEY:</p>	<p>1 wanted to make sure we were all on the same 2 page. 3 BY MS. MURPHEY: 4 Q. Now, a few more questions, Jimmy. Is 5 there any difference from an accounting standpoint 6 between the credit card payments for that hundred 7 dollar fee for a dancer's time versus cash payments 8 of the hundred dollar fee for credit card time -- I 9 mean, sorry, for entertainer time? 10 A. Could you just rephrase it for me, please? 11 Q. Yes. Is there any difference between the 12 cash payment to -- for 15 minutes of dancer time 13 for a hundred dollars versus a credit card payment 14 of 15 minutes of a dancer's time for a hundred 15 dollars from an accounting standpoint? 16 MR. SCHLANGER: Or should they be 17 treated the same? 18 THE WITNESS: They should be treated the 19 same. They should be treated the same. 20 BY MS. MURPHEY: 21 Q. And is it your understanding that that has 22 been done in the past at Swinging Richards? 23 A. The credit card charge has been recorded. 24 The cash has not. 25 Q. And is there something that's going to be</p>

25 (Pages 94 to 97)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law

DEMETRIOS "JIMMY" HARALAMBUS

9/18/2014

<p style="text-align: right;">Page 98</p> <p>1 done to rectify that?</p> <p>2 A. Well, looking at the amount, it is a</p> <p>3 material amount. What I think, just off the top, I</p> <p>4 don't know. I would have to go back and have a</p> <p>5 look. If it's a material amount, it's not going to</p> <p>6 affect the bottom line, but it's a material amount</p> <p>7 that needs to be reported. Then I would have to go</p> <p>8 back and amend my tax returns and the 1099s.</p> <p>9 Q. And is it --</p> <p>10 A. I would be obligated to do that, yes.</p> <p>11 Q. And is that your intention to do so?</p> <p>12 A. Yeah.</p> <p>13 FURTHER EXAMINATION</p> <p>14 BY MR. LUKAS:</p> <p>15 Q. Is it your intention to go back and</p> <p>16 reconstruct the cash payments made by customers to</p> <p>17 dancers for the same services they give on the</p> <p>18 floor and on the stage?</p> <p>19 MS. MURPHEY: Object to the form of the</p> <p>20 question.</p> <p>21 BY MR. LUKAS:</p> <p>22 Q. Go ahead.</p> <p>23 A. I don't -- I mean, if I can get that</p> <p>24 information, I would have to do it.</p> <p>25 Q. Because it would be material; correct?</p>	<p style="text-align: right;">Page 100</p> <p>1 That's what the patron pays. That's all.</p> <p>2 Q. I see. On this sheet you're just, it's a</p> <p>3 reminder to you of who's paying that amount for</p> <p>4 each of those categories?</p> <p>5 A. That is correct.</p> <p>6 Q. And then you have some scribbles just that</p> <p>7 you were making as we went along?</p> <p>8 A. That is correct.</p> <p>9 Q. Great. Thank you, sir. You can leave</p> <p>10 that on top of that. She'll put a sticker on it.</p> <p>11 (Whereupon, Plaintiff's</p> <p>12 Exhibit 6 was marked.)</p> <p>13 MR. LUKAS: Now we're done.</p> <p>14 (Deposition concluded at 11:55 a.m.)</p> <p>15 --oOo--</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 99</p> <p>1 A. Yes.</p> <p>2 MR. LUKAS: Do you have anything, Susan?</p> <p>3 MR. SCHLANGER: That's fine.</p> <p>4 MS. MURPHEY: No.</p> <p>5 MR. LUKAS: I think now we are done.</p> <p>6 (Whereupon, a discussion ensued off</p> <p>7 the record.)</p> <p>8 (Whereupon, the reading and signing</p> <p>9 of the deposition by the witness was</p> <p>10 reserved.)</p> <p>11 BY MR. LUKAS:</p> <p>12 Q. We're going back on the record to mark as</p> <p>13 Plaintiff Deposition Exhibit Number 6 a form that</p> <p>14 you had that you brought along with you, sir; is</p> <p>15 that right?</p> <p>16 A. That is correct.</p> <p>17 Q. And describe for us what that form is.</p> <p>18 A. Basically, I was just differentiating</p> <p>19 between what the patrons revenue is versus the</p> <p>20 dancers and the waiters and suppliers. That's all</p> <p>21 what I was doing.</p> <p>22 Q. Let me take a look at this before we close</p> <p>23 out.</p> <p>24 A. Yeah. That's all what I was doing.</p> <p>25 Basically you see liquor, the patron revenue.</p>	<p style="text-align: right;">Page 101</p> <p>1 CERTIFICATE</p> <p>2 DISTRICT COURT)</p> <p>3 NORTHERN DISTRICT)</p> <p>4 ATLANTA DIVISION)</p> <p>5 I, Debra M. Druzisky, a Certified Court</p> <p>6 Reporter in and for the State of Georgia, do hereby</p> <p>7 certify:</p> <p>8 That prior to being examined, the witness</p> <p>9 named in the foregoing deposition was by me duly</p> <p>10 sworn to testify to the truth, the whole truth, and</p> <p>11 nothing but the truth;</p> <p>12 That said deposition was taken before me</p> <p>13 at the time and place set forth and was taken down</p> <p>14 by me in shorthand and thereafter reduced to</p> <p>15 computerized transcription under my direction and</p> <p>16 supervision. And I hereby certify the foregoing</p> <p>17 deposition is a full, true and correct transcript</p> <p>18 of my shorthand notes so taken.</p> <p>19 I further certify that I am not of kin or</p> <p>20 counsel to the parties in the case, and I am not in</p> <p>21 the regular employ of counsel for any of the said</p> <p>22 parties, nor am I in any way financially interested</p> <p>23 in the result of said case.</p> <p>24 IN WITNESS WHEREOF, I have hereunto</p> <p>25 subscribed my name this 2nd day of October, 2014.</p> <p>19 _____</p> <p>20 Debra M. Druzisky</p> <p>21 Georgia CCR-B-1848</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

26 (Pages 98 to 101)

MERRILL CORPORATION

877-489-0367

www.merrillcorp.com/law